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ABSTRACT

This study attempted to identify some of the major problems that a State Education Agency (SEA) might encounter during the transition from an agency headed by an elected Chief State School Officer (CSSO) to that same agency headed by a State Board of Education (SBE) appointed CSSO. Five States--Iowa, Kansas, Michigan, Missouri, and West Virginia--were selected for the study on the basis of their shifts to a board-appointed CSSO. Data were gathered by interviewing persons who held key positions in the State at the time of transition. Each of the five chapters of this report is devoted to one of the five study States and is a complete entity with text and the corresponding appendix. The text of each chapter is divided into (1) a brief history of the SEA up to the year selected by the author as being the "jumping off" point for the change, (2) principal studies or processes that led to the change, together with information about what followed immediately after the implementing statutes were enacted, and (3) a review and an appraisal of the current governing structure as seen by study participants. A separate chapter summarizes some of the findings. (Author/JF)

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PROBLEMS OF TRANSITION:

Changing a State Department of Education from a Partisan to a Nonpartisan Political Structure

A study of five states having made the transition
from an elected Chief State School Officer (CSSO)
to a State Board of Education appointed CSSO.
Of primary concern were the significant problems
perceived by those in key roles during the transition.

EA 005 576

PROBLEMS OF TRANSITION:
Changing a State Department of Education
from a Partisan to a Nonpartisan Political Structure

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CONTENTS

	Introduction	1
I.	Iowa State Education Agency--Transition 1950 to 1967	7
	Index to Chapter I	8
II.	Kansas State Education Agency--Transition 1969	45
	Index to Chapter II	46
III.	Michigan State Education Agency--Transition 1965	89
	Index to Chapter III	90
IV.	Missouri State Education Agency--Transition 1947	125
	Index to Chapter IV	126
V.	West Virginia State Education Agency--Transition 1958 . . .	163
	Index to Chapter V	164
VI.	Summary	199
	Index to Chapter VI	200

INTRODUCTION

The purpose of this project was to attempt to identify some of the major problems which a State Education Agency (SEA) might encounter during the transition from an agency headed by an elected Chief State School Officer (CSSO) to that same agency headed by a State Board of Education (SBE) appointed CSSO. By identifying potential transition problems before an SEA faces such a change, it is possible that the SEA could devise a strategy which would enable it to minimize or eliminate some of these problems, if indeed there are any problems.

Areas in which difficulties could arise can be cited. Problems could result in the transfer of powers from the elected CSSO to the new SBE in those states where the powers had been vested in the CSSO before the transition. Other problems might arise from the manner in which personnel of the State Department of Education (SDE) are provided for during the transition. Others could spring from the manner in which the SBE deals with its new powers or from the manner in which the SBE selects its first CSSO. Still others may result from an inadequate assignment of powers and responsibilities by the constitutional and/or statutory basis of the SBE's authority.

This project, at the time of formulation, was of immediate interest to the co-sponsoring states--Indiana and Illinois. Illinois' General Assembly was mandated by the state's 1970 Constitution to provide for an SBE. One of the principal duties assigned to the SBE was the appointment of a CSSO.

Left unanswered by this constitution were those questions concerned with the

method of selection, number of members, term length of members, qualifications of members, etc. Illinois' General Assembly was directed to fill in these very important details. The electorate of Indiana, by virtue of the ratification of a Constitutional Amendment in November 1972, enabled its General Assembly to examine the entire governing structure arrangement for elementary and secondary education.

Five states were selected for study on the basis of the kinds of governing structure changes which they had most recently made. All of the study states had shifted to a board-appointed CSSO; the trend, nationally, has been in this direction and today there are 26 CSSO's selected by this method. If there were two or more states that had made an identical governing structure change, the state making the most recent change was selected. The states and their current and previous structures are given below:

State	PRIMARY CHANGE			SECOND CHANGE	
	From	To	Year	To	Year
Iowa	No SBE Elected CSSO	Elected SBE SBE-Apptd CSSO	1954	Gov-Apptd SBE SBE-Apptd CSSO	1967
Kansas	Gov-Apptd SBE Elected CSSO	Elected SBE SBE-Apptd CSSO	1969		
Michigan	Elected SBE Elected CSSO	Elected SBE SBE-Apptd CSSO	1965		
Missouri	Ex officio SBE Elected CSSO	Gov-Apptd SBE SBE-Apptd CSSO	1947		
West Virginia	Gov-Apptd SBE Elected CSSO	Gov-Apptd SBE SBE-Apptd CSSO	1958		

It was hoped that the variety of governing structure changes represented by these five states would provide a wide range of problem types which could be reviewed and studied. Of course, there was no way of knowing ahead of time what types of problems, if any, had occurred in these states during their transition periods. Each of the five SEA's was contacted: each agreed to participate in the study and designated an official in the agency, either the deputy CSSO or the administrative assistant to the CSSO, to work with

the study team.

In order to get a variety of viewpoints, each agency was asked if it could obtain people who held the following kinds of positions at, or near, the time that the transition was made:

1. the Chief State School Officer(s);
2. a board member(s);
3. the Governor(s), or educational representative(s) on the Governor's staff;
4. legislative leaders, particularly those who served as chairman of the Senate and House Education Committees;
5. a local superintendent, particularly one who served in the vicinity of the state capitol;
6. a long-term employee of the SEA;
7. a person who served as an executive of an important educational interest group.

It was felt that this cross-section of people, if obtained, would be most knowledgeable about the transition and the problems caused by it. As expected, the difficulty in obtaining these kinds of individuals increased considerably as the time between the year of transition and 1973 increased.

Visits to the five states were made during the period February 20 through March 14, 1973. The various participants in the study were asked a variety of questions about the transition. A listing of the questions is as follows:

1. What method was used to initiate the change? (A legislative study group, SEA suggested change, governor's study committee, consultants, etc.)
2. What internal problems were caused within the SEA during and after the transition?
3. What arrangements were made for employees of the SEA during the transition?
 - a. Were on-board employees given "grandfather-clause" treatment?
 - b. Were employees required to take civil service or other employee examinations to retain their positions?
 - c. Were personnel policy manuals prepared and justifications established to support personnel changes?
 - d. What was the degree of involvement of the SBE in personnel matters?
 - e. Was the SBE permitted the option of establishing organizational structure and setting salary scales?

4. Did the legislative body adopt a "hands-off" policy towards the SEA for some period of time after the transition in order to allow the SEA a period of adjustment?
5. What general powers were given to the SBE? What powers were reserved for the CSSO? What is the frequency of SBE meetings? Was the frequency of meetings established by law?
6. Was an orderly transition of powers from the CSSO to the SBE specified in the law? If not, should there have been provisions in the law?
7. Was the incumbent CSSO restricted from consideration as a candidate for the appointive CSSO position? If not, should he/she have been excluded from consideration?
8. Were specific restrictions or special qualifications placed on the CSSO's job? If not, should they have been?
9. Did the SBE go out of the state for the first board-appointed CSSO? Is this an important consideration?
10. If more than one change has occurred to get to your present governing structure, why was it approached in this manner? Was it planned or did it just evolve?
11. Were there any problems which might have been avoided by appropriate legislation?
12. Other comments?
(For instance, in your opinion is the current governing structure the best one, or do you feel that another one might do a better job?)

While these questions provided a framework for discussion, other topics pertinent to the governing structure question were explored and discussed. The degree of deviation from the structured question set depended largely upon the depth with which the participant wished to explore a given topic or issue. Discussions were recorded if participants consented to do so: all who were asked consented to do so.

Each of the following five chapters is devoted to one of the five study states. Each chapter is a complete entity and includes text and the corresponding appendix: all are organized in the same manner. Also included, at the front, is the list of names of those participating in the study. The text of each chapter is divided into three parts. The first part provides a brief history of the SEA up to the year selected by the author as being the "jumping off" point for the change. This is a rather difficult point to determine and is, in fact, quite arbitrary. The second

part of each chapter is concerned with that period of time in which the governing structure change(s) took place. It included information about the principal studies or processes which led to the change, together with information about what followed immediately after the implementing statutes were enacted. These two sections were included to provide the reader with an insight into the various governing structures established by a given state before it arrived at its current situation. The third part of the text is devoted to a review and appraisal of the current governing structure as seen by the study participants. Participants' viewpoints were summarized and presented in this section: names were not linked directly to individual comments or observations.

A sixth chapter has been included which summarizes some of the findings. It is presented from the standpoint of an overview of the five states.

The project team wishes to acknowledge the excellent cooperation and assistance given them by the hosts, study organizers and participants in each of the five states. The project directors extend their appreciation to Indiana State Superintendents of Public Instruction, Mr. J. J. Loughlin and Dr. H. H. Negley, and Illinois State Superintendent of Public Instruction, Dr. M. J. Bakalis, for their willingness to permit the project directors to carry out this project. Also, they wish to thank the Midwest Interstate Project for providing financial support for this project. Finally, the author wishes to acknowledge the secretarial support of Miss Karen E. Wilczewski in transcribing the tapes and preparing the various drafts of this report.

I - IOWA STATE EDUCATION AGENCY--
TRANSITION 1950 TO 1967

<u>Contents</u>	<u>Pages</u>
Brief History to 1950	11
Constitution	12
State Board of Education	15
State Superintendent of Public Instruction	19
The Changes--The Period from 1950 to 1967	25
The First Change, 1954	27
The Second Change, 1965-67	29
A Review and Appraisal of the Governing Structure by the Iowa Study Participants	30
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Appendix I - Iowa	37
I.A. - Iowa Constitution (1846) Article X--Education and School Lands	38
I.B. - Iowa Constitution (1857) Article IX--Education and School Lands.	40
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Table 1 - Comparison of the 1846 with the 1857 Iowa Constitutions--Education Article	13
Figure 1 - Key Events in the Iowa State Education Agency Development	20
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Bibliography	43

IOWA

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CHAPTER I

IOWA STATE EDUCATION AGENCY--

TRANSITION 1950 TO 1967

Brief History to 1950

The early history and development of the Iowa State Department of Public Instruction has been described in a chapter of a book dealing with the fifty state departments of education: the chapter was prepared by Richard N. Smith, the current Deputy Superintendent of Public Instruction of Iowa.¹ A more detailed version of this chapter is available from the Iowa State Department of Public Instruction.²

The territorial government of Iowa provided for local schools in 1838, but made no provisions for a state-level educational organization at that time.³ The first Iowa Constitution, ratified in December 1846, mandated the General Assembly to "provide for a system of common schools, . . ."⁴ Iowa became a State on December 28, 1846.⁵ The second, and current, Constitution which was ratified in September 1857, established an entirely different

¹ Jim B. Pearson and Edgar Fuller, eds., Education in the States: Historical Development and Outlook (Washington, D.C.: National Education Association of the United States, 1969), pp. 399-432.

² Richard N. Smith, Development of the Iowa Department of Public Instruction 1900-1965 (Des Moines, Iowa: Department of Public Instruction, 1969)

³ Iowa Territory, Laws (1838), Education (pp. 180-183). See also Smith, op.cit., p.2.

⁴ Iowa Const. (1846) art. X, s.3. A copy of Article X can be found in Appendix III.

⁵ "Iowa." Encyclopedia Britannica, 1962, XII, pp. 578-583.

approach which eventually resulted in the General Assembly being responsible to "provide for the educational interest of the State in any other manner that to them shall seem best and proper."⁶ Article IX, Section 1 (First-Education) of the 1857 Constitution placed the educational interests of the state in a Board of Education composed of the Lieutenant Governor and one member elected from each of the state's (eleven) judicial districts.⁷ This board was given the power to legislate and to make rules and regulations; the General Assembly was given the power to alter, amend, or repeal any act, rule or regulation.⁸ A proviso was established in the article which would allow the General Assembly to abolish or reorganize the board of education after 1863.⁹ The General Assembly exercised its option to abolish the board in 1864 and Iowa has been operating its state-level educational organization on a statutory, as opposed to Constitutional, base since then.¹⁰

Constitution

A comparison of Article X, Education and School Lands, of the 1846 Constitution with Article IX, Education and School Lands, of the 1857 Constitution reveals some very basic changes, particularly with regard to the state-level governing structure of education. This comparison can be found in Table 1. Interestingly, the Iowa General Assembly, by abolishing the Board of Education established by the 1857 Constitution, has provided for state-level governance of education since 1864 by statute, making practically all of

⁶Iowa Const. (1857) art. IX, s.15 (First Education). A copy of Article IX can be found in Appendix III.

⁷Ibid., s.1 (First--Education).

⁸Ibid., s.8 (First--Education).

⁹Ibid., s.15 (First--Education).

¹⁰Iowa, Laws (1864), c.52. See also Smith, op.cit., p.4.

TABLE I

COMPARISON OF THE 1846 WITH THE 1857 IOWA CONSTITUTIONS--EDUCATION ARTICLE

Sect. No. of Art. IX 1857 Const.	Sect. No. of Art. X 1846 Const.
<u>1st. Education</u>	
1. Established Board of Education. Lieutenant Governor, presiding officer, and one member from each of 11 judicial districts.	No counterpart.
2. Imposed age and citizenship requirements on Board members.	No counterpart.
3. Provided for term length and election of Board members; also provided for staggered terms.	No counterpart.
4. Provided for first meeting of Board. General Assembly to establish meeting dates after that.	No counterpart.
5. Provided for one 20-day session for the Board of Education each year. Also provided for a means of establishing special sessions.	No counterpart.
6. Established the office of Secretary (executive officer of the Board).	1. This section created the office of Supt. of Public Instruction. Duties similar? No counterpart.
7. Permits Board to establish rules and regulations.	No counterpart.
8. Permits Board to <u>legislate</u> and make rules and regulations. Allows General Assembly to alter, amend, or repeal acts, rules or regulations of the Board.	No counterpart.
9. Makes Governor ex officio member of the Board.	No counterpart.
10. Makes Board dependent upon General Assembly for operating funds. Prohibits Board from levying taxes or appropriating funds.	No counterpart.
11. Limits establishment of State University to one location and limits use of University funds to State University only.	5. This section permitted branches and use of funds at other locations.
12. Requires Board to establish a system of common schools and makes stipulations regarding length of school term.	3. General Assembly was required to establish the system.

TABLE 1--Continued

Sect. No. of Art. IX 1857 Const.	Sect. No. of Art. X 1846 Const.
13. Provides mileage and per diem for Board members.	No counterpart.
14. Establishes rules regarding Board meetings.	No counterpart.
15. Permits General Assembly to abolish or reorganize Board of Education after 1863, and to provide for the State's educational interest.	No counterpart.
<u>2nd. School Funds and School Lands</u>	
1. Gives General Assembly control of school funds and lands.	No counterpart.
2. Reserves proceeds from the University lands for sole use of the State University.	5. Latter part of first sentence similar except for "branches" concept.
3. Requires General Assembly to encourage the promotion of the various arts and sciences. Provides for the proceeds of all school lands.	2. Identical.
4. Provides for the disposition by the Board of Education, of fines, etc., among the school districts of the state's counties, in proportion to the number of youths, for the purpose of supporting the schools or establishing libraries.	4. Distribution specifications changed. Made the General Assembly responsible for the disposition of monies.
5. Requires the General Assembly to take measures to protect, improve, or dispose of any lands given to the State for University use including responsibility for the protection and improvement of University funds.	5. Almost identical. Eliminates reference to "branches."
6. Provided that the financial agents of school funds are to be those who receive state and local revenue for other purposes.	No counterpart.
7. Provided for the distribution of state monies to common school districts on the basis of the number of youths from 5 to 20 in the manner prescribed by law.	No counterpart. (Some relationship to No. 4 above?)

the first part of the education article inoperative. In 1864, the General Assembly established the office of State Superintendent of Public Instruction and provided for the election of this office.¹¹ The office exists today but the method of selection was changed several times since that time. An excellent paper prepared by Abels details the important sources of educational law in Iowa and points out the current Constitutional status of educational law.¹²

State Board of Education

The first effort at providing for a state board of education was a radical departure from the concept in general use in those early days. This board, the Board of Education, was given power to legislate, to make rules and regulations, and to provide for a system of common schools.¹³ It was established by the Constitution of 1857 and was a general purpose board having jurisdiction over all of education. The Lieutenant Governor was made a member and was designated the presiding officer of the board: further, the Governor was made an ex officio member of the board. One person elected from each of the state's eleven judicial districts made up the balance of the membership of the board. The judicial district members of the Board of Education were to be elected from their respective districts at the General Election in October 1858 and the first meeting of the board was to be held in December 1858, according to the statutory provisions.¹⁴ Through a provision of the Constitution, the General Assembly abolished the Board of

¹¹Ibid. See also Smith, op.cit., pp.4-22.

¹²Leonard C. Abels, "Sources of School Law," (presented at the October 13, 1969 staff meeting of the Iowa State Department of Public Instruction, Des Moines, Iowa), p.1.

¹³Iowa Const. (1857) art. IX, sec. 1-14.

¹⁴Iowa, Laws (1858), c.155; c.159, s.11.

Education in 1864.¹⁵ The office of Superintendent of Public Instruction, eliminated in 1858 by the General Assembly in response to the constitutional mandate for a board secretary, was recreated in 1864.¹⁶ Because of the General Assembly's exercising of the Constitutional provision, control of education was returned to the General Assembly in 1864. Abels indicated in his paper that Article III, Section 1 (Legislative Department) of the 1857 Constitution was cited by Iowa's Supreme Court as being the most important source of school law.¹⁷ Article III, Section 1 (Legislative Department) states that "the Legislative authority of this State shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives. . ."¹⁸

In 1861, the Board of Education created a Board of Examiners for the purpose of issuing, and revoking, teaching certificates.¹⁹ The statute was repealed in 1873.²⁰ An 1882 act of the General Assembly created a more comprehensive teacher examination board, called the Board of Educational Examiners.²¹ This board was largely a professional board and it was composed of the State Superintendent of Public Instruction serving as President, the President of the State University of Iowa, the President of the Iowa State Normal School, and two persons appointed by the State Executive Council, one of whom was to be a woman. Appointed members to the board could not be

¹⁵Iowa, Laws (1864), c.52.

¹⁶Ibid.

¹⁷Abels, op.cit., p.1.

¹⁸Iowa Const. (1857) art. III, sec. 1 (Legislative Department).

¹⁹Smith, op.cit., p.4.

²⁰Ibid.

²¹Iowa, Laws (1882), c.167, s.1.

reappointed. The board could examine and certificate teachers and could revoke certificates under certain conditions.²² The board's duties were added to by the 1902 General Assembly, principally in the area of inspection and accreditation of teacher training facilities.²³ Further modification of the teacher certificate and examination law was made in 1906, with the major change being the expanded range of teaching certificates offered.²⁴ A 1917 act changed the membership by deleting the normal school president and adding the President of Iowa State Teachers College and President of the Iowa State College of Agriculture and Mechanic Arts.²⁵ In 1933, the Board underwent a further change in membership making it an entirely professional board.²⁶ That same 1933 act included an expanded offering in numbers and types of certificates.

A special commission was created by the General Assembly in 1907 for the purpose of codifying school law.²⁷ This commission was made up of three members appointed by the Governor, two of whom were required to be practicing attorneys and one of whom was to be an active educator. Another commission of this nature was authorized in 1941 for the purpose of recodifying school law, equalizing educational opportunity, etc.²⁸ The commission was composed of the State Superintendent of Public Instruction and four governor-appointed members. It was granted broad powers in gather-

²² Ibid., s.5.

²³ Iowa, Laws (1902), c.115, s.1.

²⁴ Iowa, Laws (1906), c.122. See also Smith, op.cit., pp. 38-39.

²⁵ Iowa, Laws (1917), c.340.

²⁶ Iowa, Laws (1933), c.51.

²⁷ Iowa, Laws (1907), c.222.

²⁸ Iowa, Laws (1941), c.152.

ing information and in preparing its report.

In 1909, a State Board of Education was created but its purpose was to provide for the governance of the higher education institutions.²⁹ Board members were appointed by the Governor and confirmed by a 2/3 affirmative vote of the Senate. Members, with the exception of those on the first board, served six year terms. Three appointments were made to the nine-member board every two years and the board was scheduled to undertake its duties on July 1, 1909.

The General Assembly enacted a law in 1917 which established a board for vocational education.³⁰ This law provided for a three-member State Board for Vocational Education. The members, all state officials, were: the State Superintendent of Public Instruction, Chairman, the President of the State Board of Education, and the Chairman of the Bureau of Labor Statistics. This board was given broad powers in the area of vocational education. A state advisory committee was provided by the law and the State Board for Vocational Education was given the power to appoint these members.

In summary, Iowa had only one general purpose board up until 1950. That board was the Board of Education created under the 1857 constitution and abolished in 1864. Two special purpose boards, the Board of Educational Examiners created in 1861 and the State Board for Vocational Education created in 1917, constituted the principal state-level educational boards for Iowa education for the period 1864 to 1950. Some of the key events in the development of the Iowa State governing structure for elementary and secondary education, including the portion pertaining to the State Board of Education, can be

²⁹Iowa, Laws (1909), c.170.

³⁰Iowa, Laws (1917), c.290.

found in Figure 1.

State Superintendent of Public Instruction

In 1841, the Iowa Territorial Assembly established the office of Superintendent of Public Instruction.³¹ Dr. William Reynolds served as the first and only Territorial Superintendent:³² the office was abolished in 1842.³³

When Iowa became a state in 1846, Article X of the Constitution (1846) called for the election of the State Superintendent of Public Instruction.³⁴ The Constitution called for a three-year term for the office and for the General Assembly to prescribe the duties of the State Superintendent. In implementing the Constitution, the General Assembly provided for the office of State Superintendent of Public Instruction, prescribed his duties, and permitted the State Superintendent to employ a clerk.³⁵

As mentioned earlier, the 1857 Constitution abolished the office of State Superintendent of Public Instruction; a secretary to the Board of Education was provided in the Constitution and he was designated the board's executive officer. When the Board of Education met its demise in 1864, the office of State Superintendent of Public Instruction was recreated.³⁶ This same act also provided for a two-year elective term for the State Superintendent beginning with the General Election of 1835, and every two years thereafter. The State Superintendent's term began on January 1 of the year following the election. This act took effect in early April 1864; at the

³¹Iowa, Territorial Laws (1841), c.46.

³²Smith, op.cit., p.2.

³³Iowa, Territorial Laws (1842), c.108.

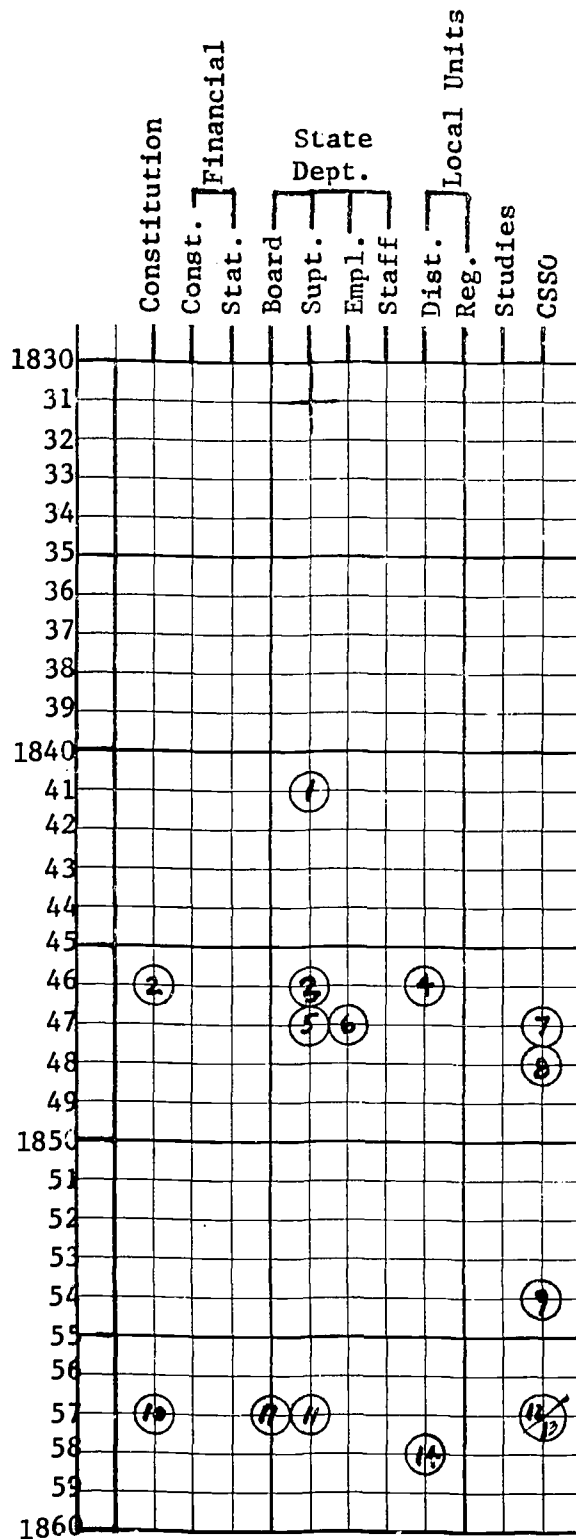
³⁴Iowa Const. (1846).art. X, sec. 1.

³⁵Iowa, Laws (1846), c.99, s.24-35.

³⁶Iowa, Laws (1864), c.52, s.1-2.

FIGURE 1

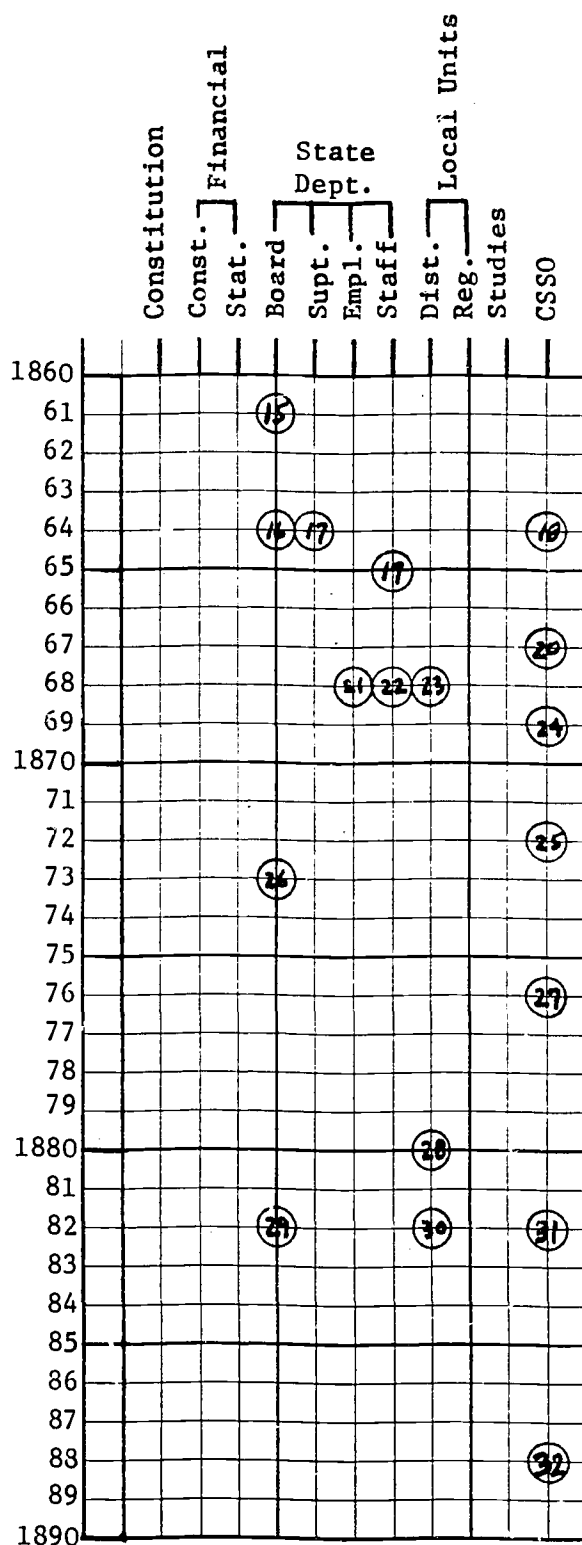
KEY EVENTS IN IOWA STATE EDUCATION AGENCY DEVELOPMENT



Events

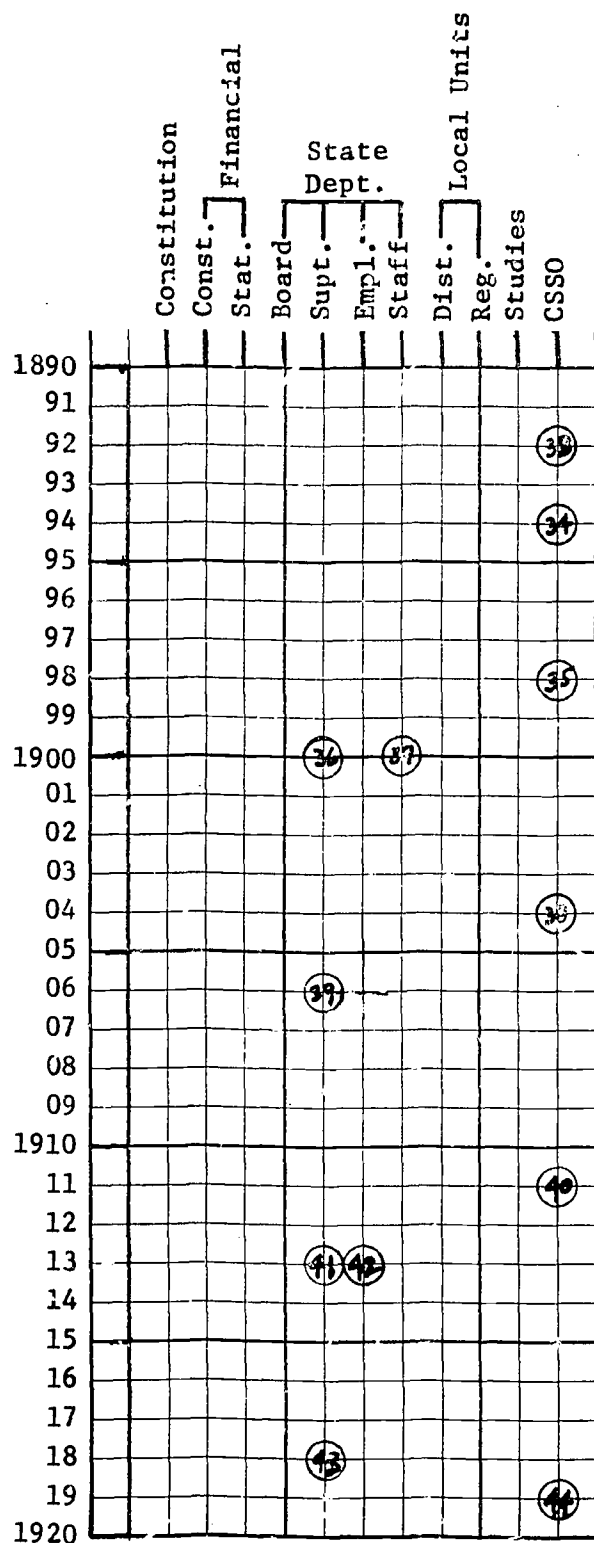
1. Office of Territorial Supt. of Public Instruction was created in 1841 and was abolished in 1842. Dr. William Reynolds served in this position.
2. First Iowa Const. ratified December 1846; Constitutional Convention approved Constitution in May 1846; Statehood granted December 28, 1846.
3. See Event 2. Provided for an elected State Supt.
4. Establish township as basic unit known as school district.
5. Legislative implementation of Const. provision concerning elective State Supt. of Public Instruction.
6. Supt. permitted to have deputy (paid from his own salary).
7. James Harlan, 1847
8. Thomas H. Benton, 1848-54; Secy. to Board, 1858-64
9. James D. Eads, 1854-57
10. Second Iowa Const. adopted at convention, March 5, 1857
11. The office of State Supt. of Public Instr. was abolished by the Const. of 1857; the office of Secretary to the Board of Education was created.
12. Joseph C. Stone, 1857
13. M. L. Fisher, 1857-58
14. Ea. civil township declared a school district; cities and towns made separate districts.

FIGURE 1--Continued

Events

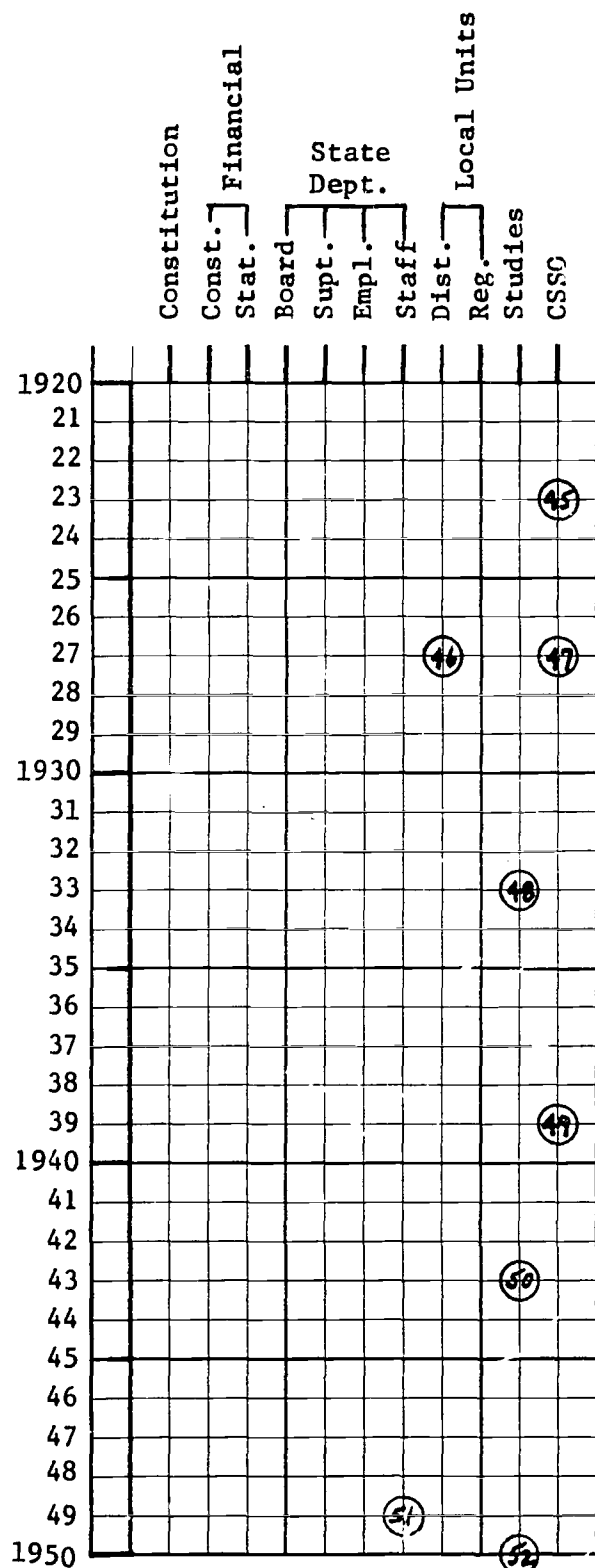
15. State Bd. of Examiners created; a professional board.
16. The Bd. of Education was abolished.
17. The office of State Supt. of Public Instruction recreated.
18. Oran Faville, 1864-67
19. Staff size = 2 (Supt., Clerk)
20. D. Franklin Wells, 1867-69
21. Supt. of Public Instruction authorized a deputy.
22. Staff size = 3 (Supt., deputy, and clerk)
23. Independent school district defined more clearly.
24. A. S. Kissell, 1869-72
25. Alonzo Abernathy, 1872-76
26. State Bd. of Examiners abolished.
27. C. W. Von Coelln, 1876-82
28. Permitted subdivision of independent school districts.
29. Board of Educational Examiners was established; a professional board.
30. Permitted subtownships to become independent school districts.
31. J. W. Akers, 1882-88
32. Henry Sabin, 1888-92

FIGURE 1--Continued

Events

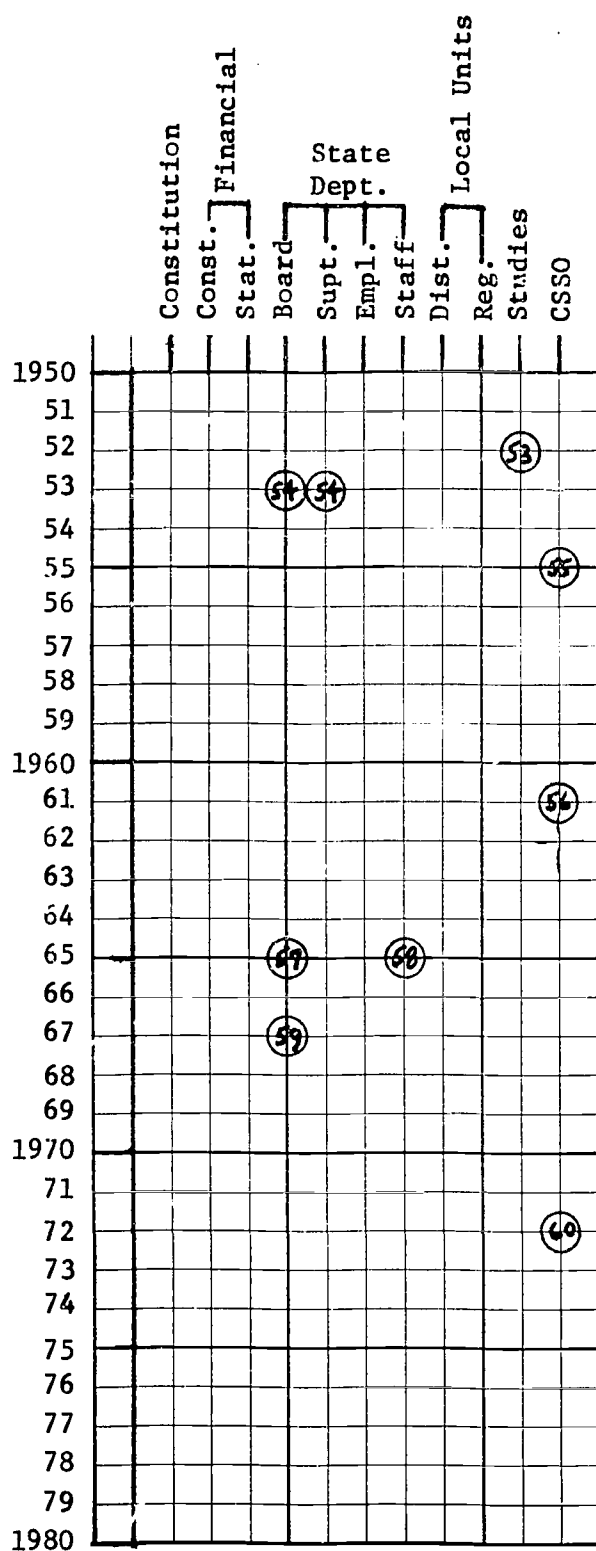
33. J. B. Knoeppler, 1892-94
34. Henry Sabin, 1894-98
35. Richard C. Barrett, 1898-1904
36. State Supt. given authority to collect and disseminate school information and to inspect schools.
37. Staff size = 3 (Supt., Deputy, and Steno.)
38. John F. Riggs, 1904-11
39. A uniform procedure for licensing teachers established; transferred from local level to state level. Also received authorization to assist in the formation of consolidated independent districts.
40. Albert M. Deyoe, 1911-19
41. The office of State Supt. was made governor-appointed for four-year term.
42. Iowa Dept. of Public Instr. came into existence.
43. The office of State Supt. returned to elective basis for four-year term.
44. P. E. McClenahan, 1919-23

FIGURE 1--Continued

Events

- 45. May E. Francis, 1923-27
- 46. School districts authorized to have public junior colleges.
- 47. Agnes Samuelson, 1927-39
- 48. Brookings Institution study--Report on a Survey of Administration in Iowa
- 49. Jessie M. Parker, 1939- 5
- 50. School Code Commission
- 51. Staff size (6/30/49) = 151
73 Prof., 78 Other
- 52. Governmental Reorganization Commission study--Report of the Governmental Reorganization Commission

FIGURE 1--Continued

Events

53. Griffenhagen Assoc. Report--
Report on a Management Improvement Study of the Office of the Superintendent of Public Instruction
54. Board of Public Instruction created and the method of selection of the State Supt. of Public Instruction was changed (to the appointive method).
55. J. C. Wright, 1955-61
56. Paul F. Johnston, 1961-72
57. The method of selection of board members elected at district conventions was changed. New method required that each district convention submit two names to the Governor for final selection.
58. Staff size (12/31/1965) = 394
199 Prof., 195 Other
Staff size (7/1/1965) = 327
161 Prof., 166 Other
59. The method of selection of Bd. of Public Instruction members changed. All members appointed by Governor with 2/3 Senate approval.
60. Robert F. Benton, 1972-Pres.

same time the office of Secretary of the Board of Education was eliminated.

In 1900, the General Assembly gave the State Superintendent the power to inspect schools and to collect and publish statistics on the state's schools.³⁷ The year 1906 saw the office of State Superintendent put on a two-year general election basis which made Iowa general elections coincide with the national elections.³⁸ The Department of Public Instruction was created in 1913.³⁹ In the same statute, the method of selection of the State Superintendent was changed from election to governor-appointment with a 2/3 majority of Senate members confirming the appointment. The tenure of the office was extended from two years to four years, and the person appointed by the governor assumed the office on July 1 after the appointment. Qualifications for the office were specified in the act as were the duties of the office. The office of State Superintendent of Public Instruction was returned to an elective method in 1918, and the tenure of the office remained at four years.⁴⁰ This was the last change made in the office up until 1954.

None of the Iowa State Superintendents of Public Instruction in office from 1864 until 1955 had served with a general purpose board. The two major boards, the Board of Educational Examiners and the State Board for Vocational Education, were small and had very special purposes to concern them. Both boards were, by statute, professionally dominated.

The Changes--the Period from 1950 to 1967

Iowa Government down through the years had financed a number of major

³⁷Iowa, Laws (1900), c.94.

³⁸Iowa, Laws (1906), c.36, s.3.

³⁹Iowa, Laws (1913), c.103.

⁴⁰Iowa, Laws (1917), c.318.

studies which examined the state's educational system, either as the major thrust of the study or as part of a larger study covering all of state government. One such large-scale study was performed by the Brookings Institution in the early 1930's. The Brookings Institution was engaged by the Iowa General Assembly to make a comprehensive study of Iowa state government. The final report, delivered in 1933, made several recommendations concerning state-level administration of education. Among them:

1. The State Board of Education should have the authority to appoint the State Superintendent of Public Instruction
2. The State Board of Education should have full authority to make rules and regulations for the public school system of the state.
3. The State Board of Education should be authorized, within budgetary limitations, to employ staff and clerical personnel for the Department of Public Instruction and to fix the compensation subject to state personnel law.
4. The State Board of Education should have full power to determine the qualifications of teachers, supervisors, inspectors, etc.
5. The State Board of Education, already in being and responsible for higher education, should assume control over the elementary and secondary educational system and should assume the powers given to the Board of Educational Examiners and the Board for Vocational Education.⁴¹

Other recommendations pertaining to education were made also. One of them included a suggestion that local schools be reorganized on a county-unit basis: this suggestion was made in the same year that West Virginia adopted its county unit plan.

The School Code Commissions of 1941 and 1943 recommended a strong State Board of Education with the board having the authority to appoint the State Superintendent.⁴² Another broad scale study commission, the Governmental

⁴¹The Brookings Institute, Report of the Institute, Report on a Survey of Administration in Iowa (Des Moines, Iowa: State of Iowa, 1933), pp. 5, 166. See also Pearson and Fuller, op.cit., p. 408.

⁴²Pearson and Fuller, op.cit., p.408.

Reorganization Commission created by the Iowa General Assembly in 1949, recommended that the Governor appoint a Commissioner of Education who would appoint the Superintendent of Public Instruction.⁴³ Interestingly, the examiner covering the Department of Public Instruction during the 1949 study recommended to the Governmental Reorganization Commission that the office of State Superintendent of Public Instruction should be made appointive.⁴⁴ He also recommended that the Department of Public Instruction be placed under a board or commission.⁴⁵ One educational group, the Iowa State Teachers Association (or Iowa State Education Association as it was later called), had advocated an appointed state superintendent as early as 1913.⁴⁶

The First Change, 1954

In 1953, the Iowa General Assembly passed a law which modified the entire state-level governing structure for elementary and secondary education.⁴⁷ One author pointed out that the governing structure adopted by the General Assembly represented a compromise between the State Superintendent, Jessie Parker, and the Iowa State Education Association (ISEA).⁴⁸ They both agreed on the concept of a board-appointed State Superintendent; however, Miss Parker wanted an elective board and the ISEA opted for a Governor-appointed board.

⁴³Ibid. See also Iowa, Laws (1949), c.254.

⁴⁴Governmental Reorganization Commission, Departmental Reports (Des Moines, Iowa: 1950). (Typewritten) See Department of Public Instruction.

⁴⁵Ibid.

⁴⁶Smith, op.cit., p.136.

⁴⁷Iowa, Laws (1953), c.114.

⁴⁸Smith, op.cit., p.137.

The principal features of this governing structure plan can be summarized as follows:

1. The State Board of Public Instruction was established as a nine-member lay board with members serving six year terms. The first board had three classes of membership--three persons serving two-year terms, three persons serving four-year terms, and two persons serving six-year terms. The ninth member was appointed by the Governor and confirmed by a two-thirds vote of the Senate.⁴⁹

2. The elective members of the board, eight, were selected from the state's eight Congressional Districts through an elective process which involved a district convention.⁵⁰ Each county board of education and each city or urban district meeting certain criteria were permitted to designate delegates and alternates to the convention. Details for holding the convention were spelled out in the law.⁵¹

3. The board was given a broad list of powers and duties, spelled out in considerable detail, to perform.⁵²

4. The Board of Educational Examiners and the Board for Vocational Education were abolished and the Board of Public Instruction was assigned their duties.⁵³

5. The Board of Public Instruction was given the power to appoint the State Superintendent of Public Instruction effective January 1, 1955.⁵⁴ The State Superintendent was appointed to a four-year term by the board subject to confirmation by a 2/3 vote of the Senate. The duties and powers of the office were spelled out in detail in the law.⁵⁵

6. The Department of Public Instruction was continued in the law, and the principle was established that the State Superintendent would make organizational and personnel changes subject to board approval.⁵⁶

In short, this statute made substantial and far-reaching changes in the Iowa

⁴⁹ Iowa, Laws (1953), c.114, s. 1-3.

⁵⁰ District here means a Congressional District or a State Board of Public Instruction District since the boundaries are conterminous.

⁵¹ Iowa, Laws (1953), c.114, s.5.

⁵² Ibid., s.10-11.

⁵³ Ibid., s.26-27.

⁵⁴ Ibid., s.11.

⁵⁵ Ibid., s.17-18.

⁵⁶ Ibid., s.19-21.

educational governing structure. J.C. Wright, Superintendent of Schools at Keokuk, Iowa, was appointed by the Board of Public Instruction in June 1954 to serve as the State's first appointed State Superintendent of Public Instruction.⁵⁷ State Superintendent Jessie Parker served as the board's first executive officer during the year 1954: she completed her term as provided in the statute.⁵⁸

The Second Change, 1965-67

State Superintendent Wright was followed in 1961 by Paul F. Johnston. In 1965, the General Assembly revised the method of selection of the Board of Public Instruction members by requiring that the District Conventions submit the names of two persons nominated for membership to the board to the Governor.⁵⁹ The Governor would then select one of the two nominees. Interestingly, the 1965 act gave the Board of Public Instruction broad powers in establishing standards for all of Iowa education up through grade 14.⁶⁰ However, the standards established by the Board were subject to submission and review by the Attorney General and the Rules Review Committee of the General Assembly.⁶¹

Another development came in 1967 when the General Assembly changed the method of selection of the Board of Public Instruction members to Governor appointed with the approval of two-thirds of Senate.⁶² Not more than five members could be from the same party according to the terms of the statute.

⁵⁷ Pearson and Fuller, op.cit., p.408.

⁵⁸ Ibid.

⁵⁹ Iowa, Laws (1965), c.226, s.7-8.

⁶⁰ Ibid., s.2.

⁶¹ Iowa, Laws (1963), c.66, s.2-7. This act provides a review procedure for rules and standards established by administrative agencies.

⁶² Iowa, Laws (1967), c.244, s.23-26.

Since both the 1965 and 1967 acts did not establish new boards, only those board members whose terms expired were subject to the changes. Hence, the stability of the Board of Public Instruction and the Department of Public Instruction was not greatly affected. Paul Johnston continued in office as State Superintendent of Public Instruction until July 1972. Dr. Robert F. Benton was appointed by the Board of Public Instruction as State Superintendent and acceded to the office in July 1972.

A Review and Appraisal of the Governing Structure
by the Iowa Study Participants

The study participants were asked a number of questions concerning the statutory changes made in 1953, 1965, and 1967 which affected the state-level governance of education. Iowa's total reliance on a statutory base for this structure presents somewhat of a different situation than that observed in any of the other four states.

First, all of the participants agreed that the basic structure established by the 1953 act of the General Assembly was quite satisfactory. The concept of a Board of Public Instruction and a board-appointed State Superintendent of Public Instruction seemed quite reasonable and practical to them. Several comments were made concerning the Board of Public Instruction its method of selection, its role, etc. There was not total agreement on how the Board of Public Instruction should be selected. Some participants felt that the Board selected under provisions of the 1953 law, that is, the district convention elected board, was a very fine board: however, about an equal number of participants felt that a governor-appointed, senate-confirmed board was equally as good. The concept of a governor-appointed State Superintendent of Public Instruction did not receive much support nor mention from these participants. Most frequently cited as the reason for the changes in 1965 and 1967 to a governor-appointed, senate-confirmed board was the problem of

school reorganization which in the late 1950's and early 1960's eventually led to charges that the board was not responsive to the people. One participant stated that the Board of Public Instruction is in a very difficult position. The General Assembly has delegated much power to the local educational agencies and retains much control to itself as a result of the *Lewis Cons. School Dist. v. Johnston* decision in Iowa's Supreme Court.⁶³ This participant stated that these factors, together with occasional threats of political sanctions against the board, may have made the board somewhat timid to act on certain issues. Several participants indicated that the Department of Public Instruction has been considered a professional organization, and that the changes made in the governing structure were not directed at the Department per se. However, one of these participants did point out that since 50% of the staffing of the Department of Public Instruction was funded by sources out of the General Assembly's control, the Department naturally becomes of interest to the legislative body.

Second, all participants agreed that the transitions in 1954 and in 1965-67 occurred in a very smooth manner. In the case of the first transition, State Superintendent Parker was committed to the governing structure plan: the balance of her term as State Superintendent was protected by a provision in the law. Further, Miss Parker had no desire to continue as State Superintendent beyond her elected term. This one-year period, calendar year 1954, permitted the Board of Public Instruction some time in which to find a State Superintendent and to learn the full extent of powers being transferred to them. Personnel changes as a result of the transition of powers were practically non-existent. Normal attrition was responsible for

⁶³Lewis Consolidated School District of Cass County v. Johnston, 127 N.W. 2d 118 (256 Iowa 236).

most of those that did occur. J.C. Wright, who was the first board-appointed State Superintendent of Public Instruction, served during a period in which a very significant reorganization of Iowa school districts took place. Considerable stress in Iowa's educational system resulted from these reorganization efforts and the changes made in the method of selection of board members in 1965 and 1967 probably stemmed from the "backlash" resulting from those efforts.

The 1965 and 1967 changes in the method of selection of Board of Public Instruction members likewise had no severe transition effects. In the first place, only those positions up for appointment were affected. As mentioned earlier, this meant three positions every two years. Thus, the board stability was not severely disrupted. In the second place, State Superintendent Johnston remained in his position through these changes. This provided stability within the Department of Public Instruction since the same basic administrative philosophy was involved. Several participants, directly involved with the Department, indicated that they had noted little difference in the operation of the Department as a result of the two governing structure changes.⁶⁴

Third, the need for changing the state-level governing structure had been brought to the attention of the profession and the public a number of times down through the years. The demand for an appointed State Superin-

⁶⁴Note: The 1965 and 1967 changes were quite interesting. Both changes came about as the result of additions made to bills which concerned completely different topics. The 1965 act was concerned with area vocational school districts and area community college districts. Both changes were "tacked on" near the end of the statutes, but only the 1967 statute contained mention of the changes in the title. As a matter of fact, the author was unable to locate either change in the index to the statutes for those years.

tendent of Public Instruction came early in the 1900's. This position was advocated by the Iowa State Education Association repeatedly over the years since then. A number of legislatively-financed studies had resulted in recommendations for an appointed State Superintendent of Public Instruction. Apparently, an essential ingredient for the 1953 change to ultimately come about was an agreement between State Superintendent of Public Instruction Jessie Parker and the Iowa State Education Association concerning the basic features of the governing structure.

The study participants also were queried about particular aspects of the governing structure statutes. With regard to:

Constitutional State Board of Public Instruction and State Superintendent of Public Instruction.—Several responded to this question and the opinion was divided. Two felt that it was best to leave it on a statutory basis; another suggested that there is definite value in putting the basic structure and powers in the Constitution. Leaving the structure and powers in statutory form permits the General Assembly to review and change the structure as needs and times dictate. On the other hand, putting the powers and structure in the Constitution enables the board of Public Instruction to face difficult problems, such as school reorganization, etc., head on without immediate retribution from the General Assembly.

Number of Board Members.—About half of the participants responded to this question. All agreed that the size of the board, nine, was just about ideal.

Type of Board.—Practically all of the participants felt that board control should be vested in lay members. Several participants suggested that experienced lay members or some professionals, not actively employed in the system, might be very useful to the board.

Representation, Geographical or Population.—All agreed that some sort of area representation is a good idea. Several suggested that the Congressional District was ideally suited for this purpose. The number of Congressional Districts in Iowa, eight in 1965, was nearly ideal for this purpose. (Note: The ninth member was appointed by the Governor.)

Political Balance on the Board.—Under the first board, an elected board, there was no control over this aspect. Under the governor-appointed, senate-confirmed board concept, a stipulation was included in the law which permits only a simple majority of the board to be of the dominant political party. Most

of the study participants felt that a political balance requirement was useful: several commented that it was their perception that the Iowa Board of Public Instruction had seldom, if ever, been divided on an issue on a partisan basis.

Term Length of Board Members.--Most of the participants responded to this question and they all agreed that the six-year term was about right as far as length is concerned. It provides enough time to get familiar with the task and yet is not too long to become excessively demanding of a member. One participant observed that prospective members of the board should understand that they are making a long-term commitment when they became board members.

Confirmation of Board Members.--Approximately half of the participants responded to this question. Most agreed that it had some value if done properly. However, one participant suggested that problems can arise if candidates names are "bottled up" in legislative committees without proper hearings.

Relations of the Board of Public Instruction with the Governor and the Legislature.--All but two responded to this question. Of these, all but one suggested that informal meetings of the Board of Public Instruction with the Governor, or his educational representative, and the two educational committees of the General Assembly would be useful. One felt that an annual report of the Board of Public Instruction to the General Assembly was all that was necessary. One of the participants supporting the informal meetings concept expressed the viewpoint that the lack of communications was one of the big problems in government and that anything done along these lines would be of assistance to all parties.

Several other observations were made by the participants of this study. The importance or effect of the civil service system on either the 1954, 1965, or 1967 transitions was apparently quite minimal. Civil service applies only to the secretarial, clerical, and comparable positions of the Department of Public Instruction. It does not apply to the professional-level positions. Several participants commented that there was distinct value in not having the professional-level positions under the control of the civil service agency. The rationale given for their position was the fact that the civil service agency has a tendency to underrate the positions. This tended to make it difficult to fill the positions with competent people and, as a result, the positions are carried on a vacant basis.

Most participants agreed that the legislature had adopted a "hands off" policy for a period of time after each major change was made--i.e., 1954 and 1967. This may have been more of an unplanned than planned strategy however. Another interesting point made by one of the participants concerned private schools--he opined that private schools should not be mentioned in the constitution because of the church-state entanglement issue.

Upon reviewing this chapter, one participant suggested that the creation, by the Iowa General Assembly, of the School Budget Review Committee in 1967 has resulted in the formation of another strong educational policy-setting agency.⁶⁵ This Committee, which has the authority to review and control budgets within the limitations of the law, is seen by this participant as reducing the importance of the Board of Public Instruction.

⁶⁵Iowa, Laws (1967), c.356. Section 33 concerns the School Budget Review Committee. The Superintendent of Public Instruction, the State Comptroller, and three governor-appointed members (representative of the public and serving three-year staggered terms) make up the membership of the Committee.

APPENDIX I

IOWA

APPENDIX NUMBER	TITLE	PAGES	
		FROM	TO
I.A.	Iowa Constitution (1846) Article X--Education and School Lands	38	39
I.B.	Iowa Constitution (1857) Article IX--Education and School Lands	40	42

APPENDIX I.A.

IOWA CONSTITUTION (1846)

ARTICLE X--EDUCATION AND SCHOOL LANDS

1. The General Assembly shall provide for the election, by the people, of a Superintendent of Public Instruction, who shall hold his office for three years, and whose duties shall be prescribed by law, and who shall receive such compensation as the General Assembly may direct.

2. The General Assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement. The proceeds of all lands that have been or hereafter may be granted by the United States to this State, for the support of schools, which shall hereafter be sold or disposed of, and the five hundred thousand acres of land granted to the new states, under an act of Congress distributing the proceeds of the public lands among the several States of the Union, approved, A.D. 1841, and all estates of deceased persons, who may have died without leaving a will, or heir; and also such per cent. as may be granted by Congress on the sale of lands in this State, shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the General Assembly may provide, shall be inviolably appropriated to the support of common schools throughout the State.

3. The General Assembly shall provide for a system of common schools, by which a school shall be kept up and supported in each school district, at least three months in every year; and any school district neglecting to keep up and support such a school may be deprived of its proportion of the interest of the public fund during such neglect.

4. The money which shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, shall be exclusively applied, in the several counties in which such money is paid or fine collected, among the several school districts of said counties, in the proportion to the number of inhabitants in such districts, to the support of common schools, or the establishment of libraries, as the General Assembly shall, from time to time, provide by law.

5. The General Assembly shall take measures for the protection, improvement, or other disposition, of such lands as have been or may hereafter be reserved or granted by the United States, or any person or persons, to this State, for the use of a University; and the funds accruing from the rents or sale of such lands, or from any other source, for the purpose aforesaid, shall be and remain a permanent fund, the interest of which shall be applied

to the support of said University, with such branches as the public convenience may hereafter demand, for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the General Assembly, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said University.

APPENDIX I.B.

IOWA CONSTITUTION (1857)

ARTICLE IX--EDUCATION AND SCHOOL LANDS

1st. Education

Section 1. Board of Education. The educational interest of the State, including Common Schools and other educational institutions, shall be under the management of a Board of Education, which shall consist of the Lieutenant Governor, who shall be the presiding officer of the Board, and have the casting vote in case of a tie, and one member to be elected from each judicial district in the State.

Sec. 2. Eligibility. No person shall be eligible as a member of said Board who shall not have attained the age of twenty five years, and shall have been one year a citizen of the State.

Sec. 3. Election of Members. One member of said Board shall be chosen by the qualified electors of each district, and shall hold the office for the term of four years, and until his successor is elected and qualified. After the first election under this Constitution, the Board shall be divided, as nearly as practicable, into two equal classes, and the seats of the first class shall be vacated after the expiration of two years; and one half of the Board shall be chosen every two years thereafter.

Sec. 4. First session. The first session of the Board of Education shall be held at the Seat of the Government, on the first Monday of December, after their election; after which the General Assembly may fix the time and place of the meeting.

Sec. 5. Limitation of sessions. The session of the Board shall be limited to twenty days, and but one session shall be held in any one year, except upon extraordinary occasions, when, upon the recommendation of two thirds of the Board, the Governor may order a special session.

Sec. 6. Secreatry. The Board of Education shall appoint a Secretary, who shall be the executive officer of the Board, and perform such duties as may be imposed upon him by the Board, and the laws of the State. They shall keep a journal of their proceedings, which shall be published and distributed in the same manner as the journals of the General Assembly.

Sec. 7. Rules and regulations. All rules and regulations made by the Board shall be published and distributed to the several Counties, Townships, and School Districts, as may be provided for by the Board, and when so made,

published and distributed, they shall have the force and effect of law.

Sec. 8. Power to legislate. The Board of Education shall have full power and authority to legislate and make all needful rules and regulations in relation to Common Schools, and other educational institutions, that are instituted; to receive aid from the School or University fund of this State: but all acts, rules, and regulations of said Board may be altered, amended or repealed by the General Assembly; and when so altered, amended, or repealed they shall not be re-enacted by the Board of Education.

Sec. 9. Governor ex officio a member. The Governor of the State shall be, ex officio, a member of said Board.

Sec. 10. Expenses. The Board shall have no power to levy taxes, or make appropriations of money. Their contingent expenses shall be provided for by the General Assembly.

Sec. 11. State university. The State University shall be established at one place without branches at any other place, and the University fund shall be applied to that Institution and no other.

Sec. 12. Common schools. The Board of Education shall provide for the education of all the youths of the State, through a system of Common Schools and such schools shall be organized and kept in each school district at least three months in each year. Any district failing, for two consecutive years, to organize and keep up a school as aforesaid may be deprived of their portion of the school fund.

Sec. 13. Compensation. The members of the Board of Education shall each receive the same per diem during the time of their session, and mileage going to and returning therefrom, as members of the General Assembly.

Sec. 14. Quorum--style of acts. A majority of the Board shall constitute a quorum for the transaction of business; but no rule, regulation, or law, for the government of Common Schools or other educational institutions, shall pass without the concurrence of a majority of all the members of the Board, which shall be expressed by the yeas and nays on the final passage. The style of all acts of the Board shall be, "Be it enacted by the Board of Education of the State of Iowa."

Sec. 15. Board may be abolished. At any time after the year One thousand eight hundred and sixty three, the General Assembly shall have power to abolish or re-organize said Board of Education, and provide for the educational interest of the State in any other manner that to them shall seem best and proper. (The board of education was abolished in 1864 by 10 GA, ch. 52, sec. 1.).

2nd. School Funds and School Lands.

Section 1. Control--management. The educational and school funds and lands, shall be under the control and management of the General Assembly of this State.

Sec. 2. Permanent fund. The university lands, and the proceeds thereof, and all monies belonging to said fund shall be a permanent fund for the

sole use of the State University. The interest arising from the same shall be annually appropriated for the support and benefit of said University.

Sec. 3. Perpetual support fund. The General Assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this State, for the support of schools, which may have been, or shall hereafter be sold, or disposed of, and the five hundred thousand acres of land granted to the new States, under an act of Congress, distributing the proceeds of the public lands among the several States of the Union, approved in the year of our Lord one thousand eight hundred and forty one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent, as has been or may hereafter be granted by Congress, on the sale of lands in this State, shall be, and remain a perpetual fund, the interest of which, together with all rents of the unsold lands, and such other means as the General Assembly may provide, shall be inviolably appropriated to the support of Common schools throughout the State.

Sec. 4. Fines--how appropriated. The money which may have been or shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several Counties for any breach of the penal laws, shall be exclusively applied, in the several Counties in which such money is paid, or fine collected, among the several school districts of said Counties, in proportion to the number of youths subject to enumeration in such districts, to the support of Common Schools, or the establishment of libraries, as the Board of Education shall, from time to time provide. (Similar constitutional provision, Art. XII, sec. 4. Analogous statute, sec. 666.3 of the Code.)

Sec. 5. Proceeds of lands. The General Assembly shall take measures for the protection, improvement, or other disposition of such lands as have been, or may hereafter be reserved, or granted by the United States, or any person or persons, to this State, for the use of the University, and the funds accruing from the rents or sale of such lands, or from any other source for the purpose aforesaid, shall be, and remain, a permanent fund, the interest of which shall be applied to the support of said University, for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the General Assembly as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said University.

Sec. 6. Agents of school funds. The financial agents of the school funds shall be the same, that by law, receive and control the State and county revenue for other civil purposes, under such regulations as may be provided by law.

Sec. 7. Distribution. The money subject to the support and maintenance of common schools shall be distributed to the districts in proportion to the number of youths, between the ages of five and twenty-one years, in such manner as may be provided by the General Assembly.

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II - KANSAS STATE EDUCATION AGENCY--
TRANSITION 1969

<u>Contents</u>	<u>Pages</u>
Brief History to 1965	49
Constitution	50
State Board of Education	51
State Superintendent of Public Instruction	59
The Change--The Period from 1965 to 1969	60
Colburn Study.	62
Legislative Response to Colburn Report	64
Implementation of the Amendment	67
The Change, 1966-69	72
A Review and Appraisal of the Governing Structure by the Kansas Study Participants	73
<hr/>	
Appendix II - Kansas	79
II.A. - Kansas Constitution (1861) Article VI--Education	80
II.B. - Kansas Constitution (1861) Article VI (1966)--Education	82
II.C. - Colburn Committee-- Proposed Article VI (1965)	84
<hr/>	
Table 2 - Comparison of the 1861 and 1966 Versions of Article VI of the 1861 Constitution	65
Figure 2 - Key Events in Kansas State Education Agency Development	52
<hr/>	
Bibliography	87

KANSAS

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CHAPTER II

KANSAS STATE EDUCATION AGENCY--

TRANSITION 1969

Brief History to 1965

The history and development of the Kansas Department of Public Instruction (now the State Department of Education) has been described in a chapter of a book dealing with the fifty state departments of education: the chapter was prepared by Adel F. Throckmorton, State Superintendent of Public Instruction from 1949-66.¹ The Territorial Legislature of Kansas passed an act which provided "for the Organization, Supervision and Maintenance of Common Schools," indicating that Kansas had an early interest in education.² This act, passed in 1859, came approximately five years after Kansas became officially recognized as a Territory on May 30, 1854. It detailed the educational structure, outlined duties of the various officials, provided details on financing education, etc.: in essence, it was a miniature educational code.

The first, and present, Kansas Constitution (The Wyandotte Constitution) was adopted by the Constitutional Convention on July 29, 1859, ratified on

¹ Jim B. Pearson and Edgar Fuller, eds., Education in the States: Historical Development and Outlook (Washington, D.C.: National Education Association of the United States, 1969), pp. 433-458. Chapter 16 concerns Kansas.

² Kansas, Acts (1859), c.116.

October 4, 1859, and Kansas was granted statehood on January 29, 1861.³

This Constitution stated that "The Legislature shall encourage the promotion of intellectual, moral, scientific, and agricultural improvement, by establishing a uniform system of Common Schools, . . ."⁴ The 1966 Amendment, which rewrote Article 6 of the Constitution, continued the major responsibility for education in the Legislature: the general supervision aspect of the Kansas educational system, i.e., the public schools, and other educational agencies, was placed in two agencies--the State Board of Education and the State Board of Regents.⁵

Constitution

The 1861 version of Article VI of the Constitution remained in effect until 1966. Only one amendment was added to Article VI of the Constitution during that period, that amendment being related to tax levies for the "use and benefit" of state educational institutions.⁶ While the 1861 Constitution assigned the responsibility for "the general supervision of the Common School funds and educational interest of the State, . . ." to the State Superintendent of Public Instruction, it also specified election as the method of selection for this office.⁷ The Kansas Legislature implemented the Constitution by specifying a two-year elective term beginning in 1862 and by permitting the office to run concurrently with the other state elective

³"Kansas," Encyclopedia Britannica, 1962, XIII, 259-63. See also U.S., An Act for the Admission of Kansas into the Union, January 29, 1861.

⁴Kansas Const. (1861) art. VI, sec. 2. A copy of Article VI can be found in Appendix II.

⁵Ibid. art. VI (1966 Amendment). A copy of Article VI (1966 Amendment) can be found in Appendix II.

⁶Kansas Const. (1861) art. VI, sec. 10. Proposed by: Kansas, Laws (1917), Senate Concurrent Resolution 15 (Chapter 352). Ratified in 1918.

⁷Kansas Const. (1861) art. I, sec. 1.

offices.⁸

State Board of Education

Kansas had experimented with a variety of state-level boards to assist the State Superintendent of Public Instruction in the supervision of the state's schools. These boards have ranged from special to general purpose and from professional to lay membership.⁹ Figure 2 presents some of the key milestones in the development of the Kansas state governing structure for elementary and secondary education, including the portion pertaining to the State Board of Education. The legislature, acting upon the recommendation of the State Superintendent Hugh McCarty, established a State Board of Education in 1873.¹⁰ This board, composed of ex officio state officers, had as its primary purpose the certification of teachers. The State Superintendent of Public Instruction, the Chancellor of the State University, the President of the State Agricultural College, and the principals of the State Normal Schools at Emporia and Leavenworth, comprised the membership of the board.

The next step in the development of special purpose boards came with the creation of the School Textbook Commission in 1897.¹¹ This board had as its basic purpose the development of a uniform, statewide textbook adoption program. Membership on the board consisted of eight governor-appointed, senate-confirmed members: not more than three of the members could come

⁸Kansas, Laws (1861), c.31.

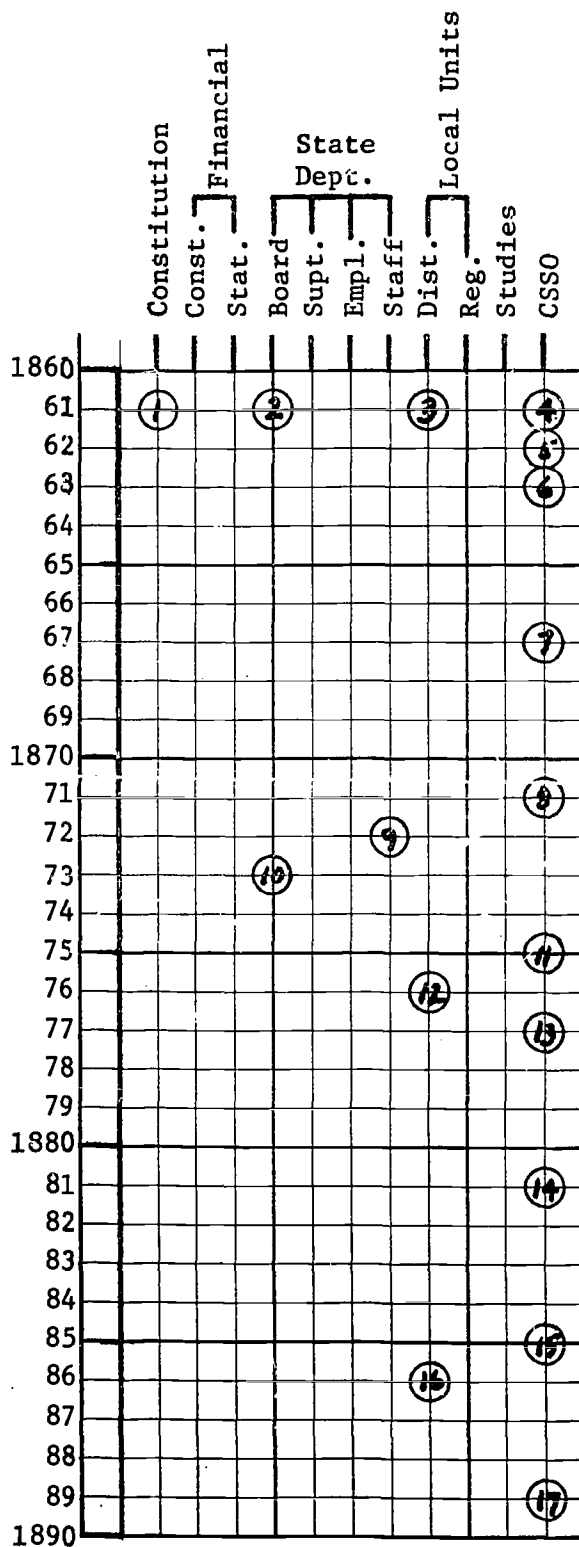
⁹One participant suggested that the various boards discussed on the following pages should not be considered as true forerunners to the 1969 elective board. Only this board succeeded to the powers of the State Superintendent of Public Instruction.

¹⁰Kansas, Laws (1873), c.133.

¹¹Kansas, Laws (1897), c.179.

FIGURE 2

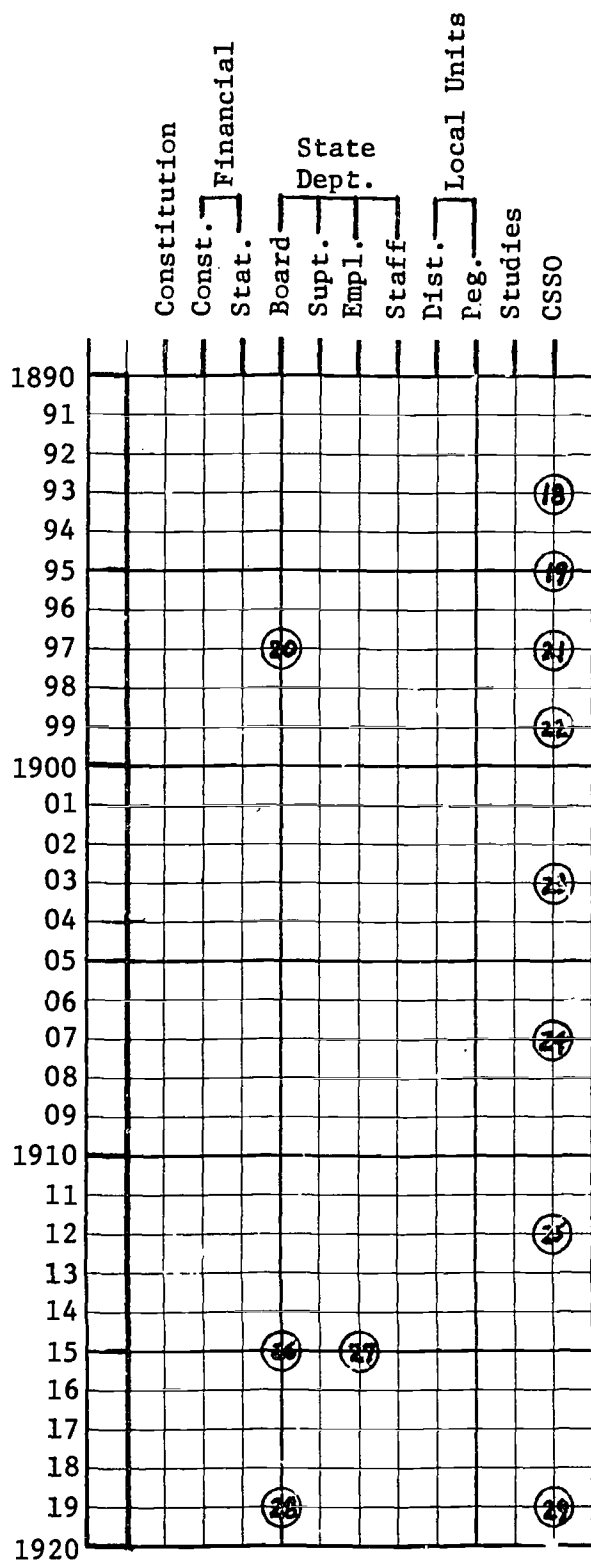
KEY EVENTS IN KANSAS STATE EDUCATION AGENCY DEVELOPMENT



Events

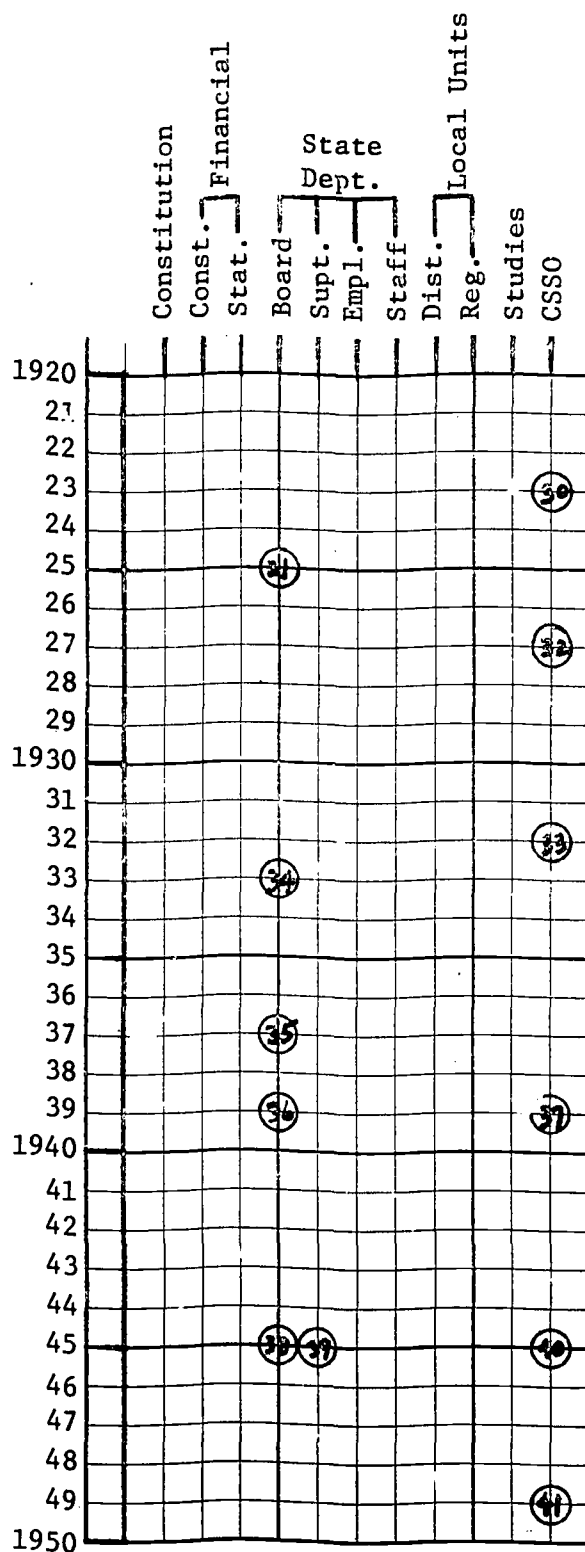
1. Constitution ratified and Kans. granted statehood on 1/29/1861.
2. Bd. of Commissioners created by Const., Art. VI, Sec. 9.
3. Creation of school districts on basis selected by county supt.
4. William Riley Griffith, 1861-62
5. Simeon Montgomery Thorp, 1862-63.
6. Isaac T. Goodnow, 1863-67
7. Peter MacVicar, 1867-71
8. Hugh DeFrance McCarty, 1871-75
9. 1872 Staff Size = 1 (Supt.)
10. First State Board of Education. Ex officio board, teacher certification primary function.
11. John Fraser, 1875-77
12. Legislation passed to permit the formation of City Dist.
13. Allen Borsley Lemon, 1877-81
14. Henry Clay Speer, 1881-85
15. Joseph Hadden Lowhead, 1885-89
16. Authorization of Secondary Dist.
17. George Wesley Winans, 1889-93

FIGURE 2--Continued

Events

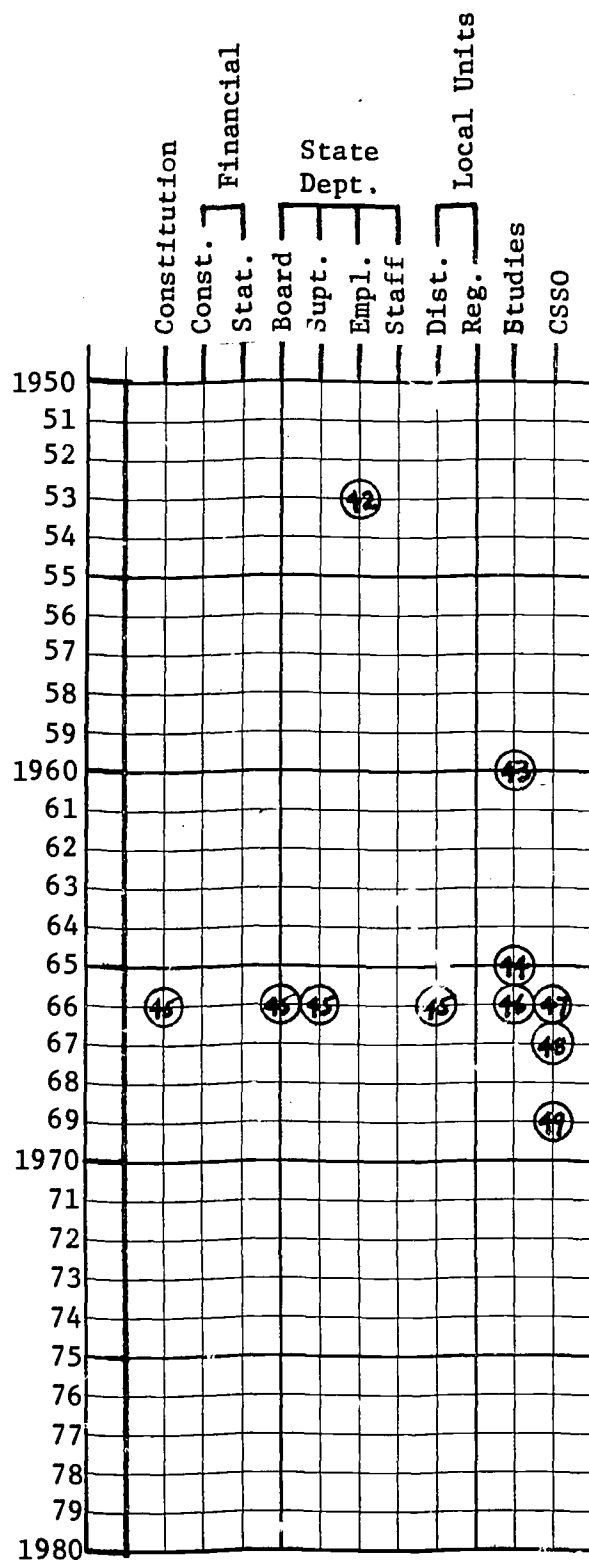
18. Henry Newton Gains, 1893-95
19. Edmund Stanley, 1895-97
20. School Textbook Commission to create uniform statewide adoption system.
21. William Stryker, 1897-99
22. Frank Nelson, 1899-1903
23. Insley L. Dayhoff, 1903-07
24. Edward T. Fairchild, 1907-12
25. Wilbert Davidson Ross, 1912-19
26. Legislature defined roles of Supt. and State Board of Educ Created State Department of Education. Some lay representation added to SBE.
27. Authorization of staff for State Department of Educ.
28. Eliminated lay representation from State Bd. of Educ. Also assigned Board responsibility for Vocational education.
29. Miss L. E. Wooster, 1919-23

FIGURE 2--Continued

Events

30. Jess W. Miley, 1923-27
31. State Board of Regents created.
32. George A. Allen, Jr., 1927-32
33. W. T. Markham, 1932-39
34. Revised membership of State Bd. making it a largely professional board.
35. State Bd. picks up duties of School Textbook Commission.
36. State Bd. of Regents made 9-member, bipartisan board; governor-appointed, senate-confirmed members with 4-yr. terms.
37. George L. McClenny, 1939-45
38. Legislature devised a governor-appointed lay board. Removed most powers from board and gave them to Supt.
39. Qualifications placed on the office of State Supt.
40. L. W. Brooks, 1945-49
41. Adel F. Throckmorton, 1949-66

FIGURE 2--Continued

Events

42. Creation of State Department of Administration: affects personnel practices of SDE, particularly at clerical levels.
43. Domain study--Comprehensive Educational Survey of Kansas
44. Colburn Study(#1)--Report of the Education Advisory Committee to the Education Committee
45. Art. 6 (Education Act) of Kansas Constitution ratified.
46. Colburn Study(#2)--A Report of the Education Advisory Committee to the Committee on Education: On Proposal No. 45
47. W. C. Kampschroeder, 1966-67
48. Murle M. Hayden, 1967-69
49. C. Taylor Whittier, 1969-Pres.

from one party and no qualifications were placed on members other than the political qualification. The board remained in operation until 1937 at which time its functions were assigned to the State Board of Education.^{12,13}

In 1915, the Kansas Legislature authorized the State Board of Education to become engaged in the inspection and accreditation of teacher training institutions and public schools.¹⁴ This action was attributed to a recommendation of W.D. Ross.¹⁵ The 1915 Legislature also created the State Department of Education, permitted a staff, and made a change in the board membership by adding lay members to the board.¹⁶ The membership of the board at this time was as follows: State Superintendent of Public Instruction, Chairman, Chancellor of State University, President of State Agricultural College, President of Kansas State Normal School, and three other governor-appointed members. This act also permitted the appointment of a secretary by the board for the purpose of inspecting colleges and universities.¹⁷ In addition to this recommendation, however, State Superintendent Ross was credited with suggesting that the State Superintendent's office should be made an appointive office.¹⁸

¹² Pearson and Fuller, op.cit., p.436. The 1945 date given on p.436 does not agree with the 1937 date on p.459. The 1937 date is consistent with the date given on p.458.

¹³ Kansas, Laws (1937), c.303. The School Book Commission was abolished by this act and its functions transferred to the augmented State Board of Education. The state printer and state business manager were designated ex officio members of the board.

¹⁴ Kansas, Laws (1915), c.296, 298.

¹⁵ Pearson and Fuller, op.cit., p.437.

¹⁶ Kansas, Laws (1915), c.296.

¹⁷ Ibid.

¹⁸ Pearson and Fuller, op.cit., p.437.

Other changes were made to the board over the years. The lay membership added in 1915 was removed in 1919.¹⁹ The membership of the board created by the 1919 act was: State Superintendent of Public Instruction, Chairman, Chancellor of the State University, President of the State Agricultural College, President of the State Normal School at Emporia, President of State Manual Training Normal School at Pittsburg, President of Fort Hays Normal School at Hays, two county or city superintendents of public instruction, and a governor-appointed county superintendent of public instruction from a county other than ones represented by the aforementioned members. In 1917, the State Board of Education gained an additional duty when it was designated by the Legislature as the Board for Vocational Education.²⁰ Another change came in 1933 when the Legislature changed the board composition.²¹ The State Superintendent of Public Instruction was made the ex officio chairman of this board. The eight governor-appointed members were: one member from among the faculty of the University of Kansas or the Kansas State College of Applied Science; one member from among the faculty of the three state teachers colleges located at Hays, Pittsburg, and Emporia; one member from the faculty of the privately endowed or denominational colleges in the State of Kansas; one county superintendent of public instruction, who shall serve only so long as he shall hold the office of county superintendent; one city school superintendent; one high school principal or superintendent from a fully accredited class A high school; and two members who shall be citizens of the state of Kansas and engaged in farming, business, or a professional occupation. Staggered four-year terms were specified in this act. This board inherited the duties of

¹⁹ Kansas, Laws (1919), c.256.

²⁰ Kansas, Laws (1917), c.280.

²¹ Kansas, Laws (1933), c.272.

the previous board and gained the additional duty of textbook adoption in 1937.²²

A 1945 act of the Kansas Legislature restructured the state's education agency, calling it the State Department of Public Instruction.²³ This act, which provided a new State Board of Education, replaced the largely professional board established through the years since 1873 with lay membership. At the same time, the Legislature made the State Board of Education largely an advisory board and limited its powers to approving and disapproving the State Superintendent's policy proposals. One source states that difficulties between the State Board of Education and State Superintendent McClenny finally prompted the Legislature to make this rather dramatic change.²⁴ The 1945 State Board of Education was a governor-appointed body containing seven members and the governor was provided with a list of qualifications under which selections to the board were to be made. Among these qualifications were the prohibition of professionals from the board (i.e., actively engaged teacher, principal, or superintendent), the maintenance of political balance requirements (no more than four from the same political party), a requirement for Congressional district (i.e., population and/or geographical distribution) representation, a limitation on the number of urban representatives (i.e., board members from districts in cities of first or second class), and a restriction on the number of three-year terms that a member could serve (two).²⁵

²²Kansas, Laws (1937), c.303. See also note 12.

²³Kansas, Laws (1945), c.282. See especially sec. 19 which pertains to the State Board of Education.

²⁴Pearson and Fuller, op.cit., p.438.

²⁵Kansas, Laws (1945), c.282, sec. 19.

While this act specified that the board was to be advisory to the State Superintendent in all matters other than the powers assigned specifically to the board, it was a move in the direction of restoring the "general supervision" powers spelled out in the Constitution to the State Superintendent of Public Instruction. There remained, however, several problem areas.²⁶ The first concerned the adoption and printing of textbooks, a power assigned to the board in 1937 and not revised in the 1945 act.²⁷ The second problem concerned the board's responsibility for vocational education, a power assigned in 1917 and not mentioned in the 1945 act. The second problem area permitted the board to engage the services of an administrator for vocational education which, in effect, made two separate administrative organizations for elementary and secondary education in Kansas. This board, created in 1945, remained in effect until the implementation of the constitutional amendment in 1969. In 1965, the Legislature increased the State Superintendent's powers primarily at the post-secondary level, i.e., junior colleges and the state technical institute.²⁸

State Superintendent of Public Instruction

Kansas' State Superintendent of Public Instruction has been a Constitutional officer since Kansas became a state in 1861. As mentioned earlier, the Constitution did specify election as the method of selection: the 1861 Legislature, in implementing the Constitution, provided for the election of

²⁶ Pearson and Fuller, op.cit., p.438.

²⁷ Kansas, Laws (1945), c.282, sec. 20,43,44.

²⁸ See for example: Kansas, Laws (1965), c.417 (Public Community Junior Colleges); Kansas, Laws (1965), c.410 (Uniform System of Free Schools); Kansas, Laws (1965), c.420 (Uniform System of Free Schools). See also comment in Pearson and Fuller, op.cit., p.439, regarding the "stripping" of powers by the Legislature from the State Board of Education.

the State Superintendent of Public Instruction on a partisan basis and for a two-year term.²⁹ The two-year term, running from the second Monday in January after the General Election, was called for by the Constitution.³⁰ This procedure for selecting the State Superintendent and his title remained unchanged until the ratification of the Constitutional Amendment in 1966.

One author reported that the relationship between the State Board of Education and the State Superintendent was not clearly defined and that this led to considerable confusion down through the years.³¹ This source also pointed out that the tenure of State Superintendents over the years had averaged less than four years per term: this short tenure may have handicapped the leadership abilities of the various State Superintendents.³²

It is interesting to note that the Kansas Legislature did place qualifications on the office in 1945: prior to this, there were no restrictions on the office other than those applying to other state officials.³³ The restrictions pertained to residence, experience, and educational attainment.

The Change--The Period From 1965 to 1969

A number of factors may have led the Kansas Legislature to adopt House Concurrent Resolution 537 on April 14, 1965.³⁴ The purpose of this resolution was to perform "a study of the scope, function, and organization of the state in supervisory education to comply with the constitutional require-

²⁹ Kansas, Laws (1861), c.31, sec. 1; Pearson and Fuller, op.cit., p.439.

³⁰ Kansas Const. (1861) art. I, sec. 1.

³¹ Pearson and Fuller, op.cit., p.437.

³² Ibid.

³³ Kansas, Laws (1945), c.282, sec. 5.

³⁴ Kansas, Laws (1965), c.428 (House Concurrent Resolution 537).

ment of a uniform system of public schools and in particular correlating supervision of programs under the State Superintendent of Public Instruction, the State Board of Education, . . ." The following factors have been proposed by the Kansas study participants as motivation for this study and the order of listing has no particular significance.

One factor was the importance of a legislatively-financed study in 1960: this study was important in the establishment of school district reorganization legislation which eventually was implemented in the period 1963-65.³⁵ Earlier unification legislation in 1945 and 1961 was declared unconstitutional by the Kansas State Supreme Court.³⁶ The importance of the Domian Study was indirect, however, since it suggested, and eventually led to, unification legislation. The school district unification legislation led to increased powers and responsibilities for the State Superintendent.³⁷ These powers, together with increasing responsibilities being placed upon the State Superintendent by federal legislation, caused many to contemplate on the role of the State Education Agency--the State Board of Education, the State Superintendent of Public Instruction, the State Department of Education, and the State Board for Vocational Education--and, in particular, the powers of the State Superintendent.

Another reason given for the interest in the Legislative study was related to the demands that has been raised over the years by educational

³⁵Pearson and Fuller, op.cit., pp. 438-39. Study referred to was that of Otto E. Domian and Robert J. Keller, Comprehensive Educational Survey of Kansas (5 Vols. and a Summary; Topeka: Kansas Legislative Council, 1960).

³⁶Ibid., p. 444.

³⁷Ibid., p. 445.

interest groups, such as the Kansas State Teachers Association (now Kansas-NEA). A third reason given was that the distribution of powers among the two principal components of the State Education Agency was leading to conflict situations. Participants agreed that the incumbent at the time was certainly qualified and competent and that the concern was more over the concentration of powers in the one officer than an attack upon the incumbent. As a matter of fact, the incumbent recommended an elected board, board-appointed state superintendent concept in 1955.³⁸ The Domian Study of 1960 pointed out some of the weaknesses of the state-level organization of education and suggested the use of a board-appointed state superintendent.³⁹ Domian also suggested that vocational education ought to become an integral part of the State Department of Public Instruction instead of being separated from the rest of education.⁴⁰

Colburn Study

The Kansas Legislative Council, the unit designed by the Legislature in House Concurrent Resolution 537 to make the study, established and funded an Educational Interim Committee chairmaned by John H. Colburn, Editor of the Wichita Eagle. Eleven prominent Kansas citizens, including Colburn, made up the committee. This committee completed the first phase of its work regarding the Constitutional Amendment and submitted a relatively short, but compedious, report on October 21, 1965.⁴¹ The report contained a completely

³⁸Ibid., p.438.

³⁹Otto E. Domian and Robert J. Keller, Comprehensive Educational Survey of Kansas (Summary Report; Topeka, Kansas Legislative Council, 1960), p.90, 107-08.

⁴⁰Ibid., p. 89-90, 107-08.

⁴²Report on the Education Advisory Committee to the Education Committee, John H. Colburn, Chairman (Topeka, Kansas; Kansas Legislative Council, 1965). See Appendix II for a copy of the proposed Article VI.

rewritten Article VI and was organized around this recommended constitutional amendment, examining each section and subsection of the proposed amendment in detail. The principal recommendations given by the Colburn Committee can be summarized as follows:

1. That the Legislature continue to act as the state's agent for the provision of a system of schools and educational institutions, modifying the system as conditions change.⁴²

2. That the Legislature provide for a State Board of Education which shall have general supervision of all public schools, educational institutions and related activities. The supervisory aspect includes vocational schools, community junior colleges, and all of the educational interests of the state except higher education. Other duties, as established by law, could be assigned to the State Board as well.⁴³

3. That the Legislature provide for a State Board of Regents which shall supervise public institutions of higher education and related activities. Higher Education institutions, as defined by the Committee, are those universities and colleges which grant baccalaureate or post-baccalaureate degrees. A further stipulation was included which permitted additional duties to be assigned to the State Board of Regents by law.⁴⁴

4. That members of the State Board of Education and the State Board of Regents be appointed to terms of not less than six nor more than nine years as the Legislature prescribes. A special provision permitted the appointments for less than six years on the first boards in order to get the overlapping-term feature established.⁴⁵

5. That the members of both boards be appointed by the Governor and confirmed by the Senate.⁴⁶

6. That vacancies on either board be filled by the Governor as provided by law and that the Governor be empowered to remove a member on either board for cause as provided by law.⁴⁷

⁴²Ibid., p.5.

⁴³Ibid., p.6-7.

⁴⁴Ibid., p.11.

⁴⁵Ibid., p.13.

⁴⁶Ibid., p.14

⁴⁷Ibid., p.16.

7. That the State Board of Education appoint, and fix the compensation of, a Commissioner of Education who serves as the Board's executive officer and at its pleasure.⁴⁸

The interesting thing about this report is the fact that the constitution language is explained by the Committee and that the logic behind the language is detailed immediately below each section or subsection.

Legislative Response to the Colburn Report

The Colburn Committee report was studied by the Legislature during the 1966 session. One of the principal points of discussion of the Colburn report by the Legislature centered around the method of selection of members of the State Board of Education. Several of the Kansas study participants suggested that the feeling was quite strong for an elected board: not so much the result of pressure from a specific organization, or several organizations, but a general feeling of many legislators that the power for selection ought to reside with the electorate. There were other differences between the Colburn report recommendations and the Legislature's adoption: these differences have been highlighted in Table 2.

In a special session of the Legislature in 1966, House Concurrent Resolution 505 was adopted on March 2, 1966, for the purpose of placing a new Article VI before the voters of Kansas.⁴⁹ A copy of this article can be found in Appendix II. Governor Avery called the special session for the purpose of reapportioning the seats in the Kansas Legislature under the "equal protection" clause of Article XIV of the U.S. Constitution.

The amendment was submitted to the people on November 8, 1966 along

⁴⁸ Ibid., p.17.

⁴⁹ Kansas, Laws (1966-Special Session), c.10 (House Concurrent Resolution No. 505).

TABLE 2

COMPARISON OF THE 1861 AND 1966 VERSIONS OF ARTICLE VI OF THE 1861 CONSTITUTION
[Compared Against Colburn Committee Recommendations for Article VI]

Sect. No. of Art. VI Proposed by Colburn Comm.	Sect. No. of Art. VI 1861 Version & 1918 Amendment	Sect. No. of Art. VI 1966 Version
1. <u>Schools and Related Institutions and Activities</u>		
a) Legislature to organize educational system.	2.	1. Identical.
b) Racial, creed, sex or national origin discrimination prohibited in public education system.	No counterpart.	No counterpart.
2. <u>State Board of Education and State Board of Regents</u>		
a) Establishes state board of education and defines mission.	No counterpart.	2(a). Does not detail types of institutions.
b) Establishes state board of regents and defines mission.	No counterpart.	2.(b). Very similar.
c) Control of municipal universities.	No counterpart.	2.(c). Identical.
3. <u>Members of State Board of Education and State Board of Regents</u>		
a) Establishes overlapping terms of greater than 5 but less than 10 years and permits lesser terms in first boards.	No counterpart.	3.(a). State Board of Education--Provides for a 10-member elected board. 3.(b). State Board of Regents--Provides for a 9-member, governor-appointed board. All terms established by law. 3.(b). State Board of Regents.
b) Governor-appointed board, members confirmed by Senate.	No counterpart.	3.(a). Vacancies on State Bd. of Education.
c) The filling of vacancies and removal of board members.	No counterpart.	3.(b). Vacancies on State Bd. of Regents. 3.(c). Covers removal on both boards.
4. <u>Commissioner of Education</u> Apptd. by SBE; Exec. Officer of the Bd. Bd. sets compensation of Commissioner.	1. Totally changed concept with regard to duties and method of selection.	4. Identical except that it is silent on compensation.

TABLE 2--Continued

Sect. No. of Art. VI Proposed by Colburn Comm.	Sect. No. of Art. VI 1861 Version & 1918 Amendment	Sect. No. of Art. VI 1966 Version
5. <u>Local public schools</u> Provides locally elected boards to manage public schools. Permits cooperative programs.	2. Greatly expanded.	5. Minor additions in language concerning the word "operated."
6. <u>Finance</u> a) <u>Levy</u> of permanent tax for public higher education institutions. Gives legislature power to provide for financing. b) Provides for flexibility in financing by permitting certain fund transfers; two-year appropriations; creation of special corporate entities, etc., relating to educational or scientific research. c) Provisions for the regulation of fees and tuitions by the two boards.	10. No counterpart.	6.(a). Almost identical. "Public" vs. "State" institutions of higher education. 6.(b). First sentence corresponds to first sentence of 6.(b). of Colburn report. 6.(b). Provides that no tuition shall be charged public school students, and that fees or supplemental charges must be authorized by law. 6.(b). Permits State Bd. of Regents to establish fees, tuitions, and charges for institutions under its control. No counterpart.
d) Permits the two boards: 1) to allocate among and within institutions under their control such funds as legislature appropriates; and 2) to receive, manage, expend and invest funds from any source. e) Prohibits religious sects from controlling any of the school funds.	No counterpart. 8.	6.(c). Identical. No counterpart.
7. <u>Fines to be appropriated for school purposes</u> Requires proceeds of fines for breach of penal laws to be used for educational purposes.	6. Many of sources in this section no longer exist.	No counterpart.
8. <u>Saving Clause</u> a) Provides for disposition of laws consistent and in conflict with this article. b) Eliminates election as method of selection of Co. Supts. In effect, eliminated office. c) Permits Legislature to dispose of state perpetual fund; limits use to education.	No counterpart. 1. 9. School Fund Commission created here is eliminated in 1966.	7.(a). Identical. 7.(b). identical. 7.(c). Minor changes in language.

with two other amendments and passed by a sizeable majority. The results were as follows:⁵⁰

<u>Amend. No.</u>	<u>Const. Art./Sec.</u>	<u>Topic</u>	<u>Yes(%)</u>	<u>No(%)</u>
1	2/25	Established Annual Sessions of Legislature	331,479 (66.32)	168,382 (33.68)
2	11/11	Taxation of Income by Federal Law Reference	252,731 (53.05)	223,643 (46.95)
3	6/1-7	Revision of Article VI	286,400 (57.58)	211,027 (42.42)

Approximately 700,000 votes were cast for the office of Governor, indicating that about 70% of the voters exercised their right to vote on the Constitutional questions. The way was cleared to implement the Constitutional Amendment.

In 1968, the Kansas Legislature began the implementation of the Amendment. Implementation of a total rewrite of the educational article of the Constitution is no small task because many concepts were changed in the process. Many existing statutes were affected, if for nothing more than the fact that proper nomenclature had to be used for the names of boards and officers: hence, the importance of the "saving clause" in the amendment.

Implementation of the Amendment

Once again, the Kansas Legislature called upon the Colburn Committee for recommendations regarding the implementation of the Constitutional Amendment. The committee completed its work and prepared a report for delivery to the Kansas Legislative Council in November, 1966.⁵¹ A number of recommendations for implementation were included of which a few of the principal ones are

⁵⁰Information obtained from the Kansas Secretary of State's office by telephone on February 27, 1973.

⁵¹A Report of the Education Advisory Committee to the Committee on Education: On Proposal No. 45, John H. Colburn, Chairman (Topeka, Kansas: Kansas Legislative Council, 1966).

listed here:

1. That State Board of Education members be elected on a nonpartisan ballot. Permit two methods of designating candidates: (1) permit any citizen who wishes to file a declaration or petition with the Secretary of State, (2) use a governor-appointed commission of 10 members in each of the state's ten State Board of Education districts to nominate a candidate.⁵²

2. That the date for the election of State Board of Education members be set for the first Tuesday in April of each odd-numbered year. This date corresponds with the date of election for members of the boards of unified districts who are also selected on a nonpartisan basis. This would provide a "state" issue for the election. Hold the first election in April 1968 (for the entire board), the second one in April 1969, and succeeding elections at two year intervals thereafter.⁵³

3. That a six-year term be established for members and that the term begin on July 1 of the year in which they are elected. Members service would be limited to two consecutive six-year terms. The overlapping terms of the board members should be established in the first board by setting different term lengths.⁵⁴

4. That local board of education members, employees of any school district, private school, or any educational institution be ineligible for membership on the board. The definition of lay membership thus becomes all persons eligible for elective office other than those excluded in the preceding sentence. A vacancy could be filled by an election in the affected district for the unexpired term. The governor should make interim appointments until the next election to assure that each district is represented on the board.⁵⁵

5. That all statutory powers and duties be transferred from the State Superintendent of Public Instruction to the State Board of Education. The Commissioner of Education should be directed to execute the Board's policies and to supervise the administrative functions for the board.⁵⁶

6. That the present Department of Vocational Education be placed as a division under the new State Board of Education. The activities of other state agencies which are related to schools should be reviewed and approved by the State Board of

⁵² Ibid., p.1.

⁵³ Ibid., p.2.

⁵⁴ Ibid.

⁵⁵ Ibid., p.2-3.

⁵⁶ Ibid., p.3.

Education.⁵⁷

7. That the Commissioner of Education serve at the pleasure of the board as its executive officer and administrative head of the department. Also no qualifications should be specified in statutes other than a statement concerning the fact that the Commissioner should have a broad background and administrative experience. The board should be permitted to set the salary of the Commissioner.⁵⁸

8. That the State Board of Education be permitted to appoint an acting Commissioner, possibly the incumbent State Superintendent of Public Instruction as of July 1, 1968, to assist in the orientation of the new board and to facilitate a smooth transition.⁵⁹

9. That the State Board of Education and the State Board of Regents develop liaison in the several areas of common interest which require cooperative development and administrative coordination. Vocational education was one of the areas mentioned: also mentioned were the Schilling institute and the developing community junior colleges. Specific mention was made of the fact that the power to transfer these institutions to the State Board of Regent's supervision could be accomplished if the Legislature chose to do so.⁶⁰ Other areas requiring coordination by the two boards included: (1) teacher education, (2) courses of study in high schools, junior colleges, and technical institutes, (3) admission requirements to colleges and universities by high school students, (4) state financing of education. Holding joint meetings and encouraging the administrative staffs to work together were suggested as means of fostering this kind of cooperation.

10. That a state-level advisory committee on vocational-technical education be established for the purpose of coordinating programs.⁶¹

11. That the State Board of Regents be established before July 1, 1969. The members should be appointed by the Governor for six-year terms subject to confirmation by the Senate. At least one member should represent each Congressional district and not more than one member can represent any given county. Terms should be staggered with three members being appointed each two years: the number of terms should be limited to two consecutive full terms. Terms should expire in December, thus enabling new appointees to become members prior to the beginning of the Legislative session. The committee also recommended that

⁵⁷ Ibid.

⁵⁸ Ibid., p.3-4.

⁵⁹ Ibid., p.4.

⁶⁰ Ibid., p.5.

⁶¹ Ibid.

five board members be members of the major political party and that four board members be members of the second largest political party as determined by the number of votes cast for the office of Secretary of State in the election of 1966. Persons currently serving as officers, faculty members, or employees of any public or private two-or four-year college or university should be excluded from board membership.⁶²

Other recommendations appeared in the report as well but the above list provides a rapid review of the principal ones.

The Kansas Legislature performed the major implementation of the Constitutional Amendment during the 1968 session, especially that portion pertaining to the State Board of Education. Some of the principal provisions that were enacted were as follows:

First, the Legislature established four-year terms for members; it made the election of board members coincident with the primary and general elections of other state officers, starting with the election in 1968; it provided that the board members should take office on the second Monday of January of the year following the election of members (the first board would take office on January 13, 1969, under the law); and, in order to stagger terms, the members of the first board elected to board member positions 1,3,5,7, and 9 were elected for two-year terms and the members elected to board member positions 2,4,6,8, and 10 were elected for four-year terms.⁶³ Members do run on a partisan ballot.⁶⁴

Second, the Legislature excluded from membership to the board state, school district or community junior college officers and employees.⁶⁵

Third, provisions for filling of vacancies on the board were made. Included was a stipulation for the governor to make an appointment from appointees selected by district political party conventions, to fill a vacancy. A further stipulation required that an appointee who has more than two years of a vacated term remaining face election at the next election for the remaining two years of the term.⁶⁶

⁶²Ibid., p.7.

⁶³Kansas, Laws (1968), c.157.

⁶⁴Ibid., c.269, sec. 4(a).

⁶⁵Ibid., c.157, sec. 4.

⁶⁶Kansas, Laws (1968), c.269, sec. 4; Kansas, Laws (1968) C.157, sec. 6(c).

Fourth, the office of State Superintendent was abolished on January 14, 1969.⁶⁷

Fifth, the board was granted those powers given it by the Constitution only "as such powers are more specifically described and defined by law."⁶⁸

Sixth, a provision was made in the law for the appointment of an acting Commissioner of Education and the law permitted meetings of the State Board of Education prior to January 13, 1969.⁶⁹

Seventh, the appointment, compensation, and civil service status of employees was provided for in the law.⁷⁰ All employees are appointed by the State Board of Education: all except the Commissioner and Assistant Commissioners are in the classified service, i.e., include in the Kansas Civil Service Act. All employees except assistant commissioners and employees of the Division of Vocational Rehabilitation were protected by the law during the transition.⁷¹

Eighth, the powers assigned to the Kansas State Board of Education included the following:

"(a) Adopt and maintain standards, criteria, guidelines or rules and regulations for the following:

- (1) School libraries and textbooks and other educational materials;
- (2) Courses of study and curriculum;
- (3) Accredited schools including elementary, secondary and junior colleges, public and nonpublic;
- (4) Certification of administrators, teachers, counselors, and supervisors of school districts and of the state department of education and of teachers and administrators of non-public schools;
- (5) Have general supervision of school nurses.

(b) Administer the laws of this state concerning the matters named in this section and all other matters

⁶⁷ Kansas, Laws (1968), c.269, sec. 8.

⁶⁸ Ibid., sec. 3(c). It would be argued that the clause in quotes is the factor which limits the Constitutional provisions from being self-executing: this is the Legislature's check to insure that the State Board of Education does not engage in areas of "general supervision" of the schools that it does not intend for it to be involved in.

⁶⁹ Ibid., sec. 15, 30.

⁷⁰ Ibid., sec. 16-19.

⁷¹ Ibid., sec. 19.

relating to the general supervision of the public schools and institutions under the supervision of the state board of education."⁷²

The Change, 1966-69

In September 1966, Dr. Throckmorton, the State Superintendent of Public Instruction, resigned his office.⁷³ Mr. W. C. Kampschroeder, Assistant State Superintendent, was appointed by the Governor to fill out the term of Throckmorton. He ran in November 1966 and was elected State Superintendent for a full two-year term beginning in January 1967. As mentioned earlier, the same ballot carried on it the Constitutional amendment pertaining to the education article and the amendment was ratified by the voters. Since the constitutional amendment passed, a clause in it insured that the incumbent would be the last elected State Superintendent. State Superintendent Kampschroeder died as the result of an automobile accident on November 8, 1967.

Mr. Murle M. Hayden was appointed by Governor Docking as the State Superintendent of Public Instruction to serve out Kampschroeder's unexpired term. Mr. Hayden served from December 5, 1967 through January 12, 1969, as State Superintendent of Public Instruction and from January 13, 1969, through September 30, 1969, as Acting Commissioner of Education. The appointment of an Acting Commissioner by the State Board of Education was provided for in the implementing statute and this provided the State Board of Education an opportunity to make a relatively unhurried choice for Commissioner of Education. Acting Commissioner Hayden was near retirement and did not wish to be considered by the Board as a candidate for the office.

The State Board of Education initiated a nationwide search for a

⁷²Ibid., c.327. One participant pointed out that the Board has broad rule-and regulation-making authority given by: Kansas, Laws (1968), c.269, sec.28.

⁷³Pearson and Fuller, op.cit., p.440.

candidate to fill the office of Commissioner of Education. A special brochure was prepared advertising for candidates and it stated that nominees for the position should:

"Hold an earned doctoral degree with a liberal proportion of training and experience in the fields of educational leadership and administration.

Be recently or currently active as an educator or administrator in a school system; an accredited junior college; a department, school or college of education of an accredited college or university; a state or federal agency; or other agencies, including foundations.

Have leadership capacity, with ability to define educational policies or goals.

Have demonstrated competence in public relations through both oral and written communications.

Be a person of such character, stature, and poise that he will hold professional and public confidence and respect."⁷⁴

In September 1969, the State Board of Education appointed Dr. C. Taylor Whittier as Commissioner of Education, and Dr. Whittier took office on October 1, 1969.

A Review and Appraisal of the Governing Structure by the Kansas Study Participants

A number of questions were posed to the Kansas study participants concerning the educational governing structure established by the 1966 Constitutional Amendment. In this study group, there was no interchange of opinions among participants: each participant was interviewed on an individual basis.

First, there was general satisfaction with the amendment itself. However, there were several areas of the amendment which received comment. More than half of the participants felt that State Board of Education members should be selected by some method other than election. Of these partici-

⁷⁴State Board of Education, "The Board of Education of the State of Kansas invites nominations for the position of Commissioner of Education," Topeka, 1969. (Printed.)

pants, most preferred the approach which would provide for the selection of State Board of Education members by the Governor with confirmation by the Senate. One participant suggested that some board members might be appointed by the Governor with the remainder being appointed by the Legislature. Another participant suggested that the cabinet form of government might be better yet, with the Commissioner of Education being chosen by the Governor.

Several participants expressed concern over the powers of the board as spelled out in the Constitution, particularly were they concerned about the very vague and general nature of these powers. This vagueness, in their opinion, is such so as to require Legislative action or implementation on any major undertaking of the board in fulfilling its general supervisory responsibilities.⁷⁵ In short, the powers of the State Board of Education under Article VI of the Constitution are not "self-executing." Another participant saw no need for specifying the election of members of local school boards in the Constitution.

Second, all participants agreed that the transition occurred in a smooth and satisfactory manner. Several reasons were advanced by the participants for this: (1) an already existing civil service system which protected many of the employees of the agency, (2) a provision in the 1968 law, mentioned above, which protected all classified service positions in the process of transition from the old State Department of Public Instruction to the new State Department of Education, (3) the appointment of the State Superintendent of Public Instruction as Acting Commissioner of Education during the early formation and development of the board, and (4) the attention of

75

One participant, in reviewing this chapter, suggested that this vagueness is a virtue and that he was not aware of any contrary opinion on this subject.

the board was focused on the selection of the Commissioner during the early months of the board's life so that internal problems were not of primary concern and, hence, a time for adjustment by personnel was automatically provided. Several participants observed that there was some uncertainty in the department during the transition, especially at the higher levels, but that this did not appear to be excessive or undue.

With regard to the civil service system, several participants pointed out that there is at least one distinct disadvantage to having the professional personnel under the system. They indicated that there is a reluctance on the part of the civil service board to develop pay scales for these personnel which are realistic in terms of the expertise and experience required of these professional personnel. These participants then called upon data from local school districts to emphasize their point. Another participant felt that the transition was probably too long: that it should be shortened and that the board should have its commissioner selected when it assumes office.

Most participants agreed that the Legislature adopted a "hands-off" policy towards the board for several years until the board got established. This was not perceived of as a deliberate strategy but one which just sort of evolved.

Third, the need for change in structure was being felt in the Legislature as a result of the demands of school district patrons and professional organizations. Most participants agreed that the Domian Study of 1960 laid the basis for the need to change. Its immediate effect was in the school district reorganization area. The fallout from the school reorganization problems, plus the Kansas Supreme Court's ruling regarding a school redistricting law which held that it was unconstitutional to assign legislative powers to non-constitutional offices or boards, encouraged the 1965 Colburn study. However,

the cry for a different structure was raised much earlier. As early as 1944, the Kansas State Teachers Association pointed out the need for change and suggested an appointive school officer.⁷⁶ One participant recalled similar demands being voiced in the early 1930's. Most participants felt that the change actually was delayed a number of years because of general satisfaction with the performance and competency of State Superintendent Throckmorton. When it finally did occur, he was near the age of retirement. Most participants agreed that Dr. Throckmorton was generally supportive of the amendment and its concept as was his successor, Mr. Kampschroeder, the last elected State Superintendent of Public Instruction.

The participants were queried further on some particular aspects of governing structures and the constitutional and legislative implementation resulting therefrom. With regard to:

Constitutional State Board of Education and Commissioner.—Most participants agreed that there should be a Constitutional State Board of Education. One felt that it was not necessary to make the Commissioner of Education a Constitutional Officer. Most agreed that a Commissioner of Education, appointed by the State Board of Education to serve at the board's pleasure, were essential aspects of the governing structure framework.

Lay Membership on Board.—All participants agreed that lay control of the board was essential. Several observed that having some professional membership on the board has some advantages: they qualified this by saying that no member should be actively employed in the school system.

Representation.—Most participants agreed that some requirement concerning geographical or population representation was an essential requirement in Kansas.

Political Balance on Board.—This does not, of course, apply to an elective board. However, if the choice had been a governor-appointed board, the participants would have favored a political balance requirement, such as the one

⁷⁶The Kansas State Teachers Association, The State Department of Education in Kansas (Bulletin No. 2, Series of 1945; Topeka, Kansas: The Kansas State Teachers Association, 1944).

employed in the development of the State Board of Regents legislation. Several participants observed that, to their knowledge, partisan political divisions on specific issues simply had not occurred on either the State Board of Education or the State Board of Regents.

Term Length of Members.--Several participants ventured opinions on this subject. The feeling expressed was that 4-to 6-year terms are reasonable and that members should be eligible for reappointment.

Confirmation of Board Members.--Again, this does not apply to an elective board. However, if the choice had been a governor-appointed board, the participants who replied favored a confirmation process as part of a checks and balances system.

Relations of the State Board of Education with the Governor and the Legislature.--Almost every participant agreed that a closer involvement with the Governor and Legislative leaders would be valuable. The view expressed by several was that meetings should be largely unstructured and informal situations and held on a periodic basis.

Other opinions were secured from the study participants as well. One of the problem areas with the elective board, as perceived by several of the participants, was that related to obtaining a sufficient number of high quality candidates. Other participants observed that a State Board of Education should have a good rapport with the Legislature and should be concerned with statewide policies and issues: less board effort and concern should be devoted to regulation-type activities. This same theme was mentioned by several participants in the local-vs. state-power issue. Most viewed vocational education as an integral part of total education and therefore it should be an activity under the State Board of Education and its Commissioner.

One problem area in the current law which was pointed out by a participant was the requirement of six votes to pass an issue while specifying six members as a quorum. This leads to situations, in periods of low attendance, when all members would be required to vote affirmatively on an issue in order to pass it. Another area which several participants felt might have been handled differently was that related to the salary of the Commissioner

of Education. Currently, the Commissioner's salary is established in an appropriations law at a level lower than these participants felt it should be. These same participants suggested that this issue should have been established as a prerogative of the State Board of Education: that is, to set salaries, including the Commissioner's, within the limits of the appropriation.

In the way of suggestions to other agencies, one participant suggested the importance of the computer search capabilities on statutes contained in the ASPEN system. This capability is extremely important when the name of a board or office changes, such as in the Kansas situation, and a vast number of laws are affected.

APPENDIX II

KANSAS

APPENDIX NUMBER	TITLE	PAGES	
		FROM	TO
II.A.	Kansas Constitution (1861) Article VI--Education	80	81
II.B.	Kansas Constitution (1861) Article VI (1956)--Education	82	83
II.C.	Colburn Committee--Proposed Article VI (1965)	84	86

APPENDIX II.A.

KANSAS CONSTITUTION (1861)

ARTICLE VI--EDUCATION

Sec. 1. The State Superintendent of Public Instruction shall have the general supervision of the Common School funds and educational interest of the State, and perform such other duties as may be prescribed by law. A Superintendent of Public Instruction shall be elected in each county, whose term of office shall be two years, and whose duties and compensation shall be prescribed by law.

Sec. 2. The Legislature shall encourage the promotion of intellectual, moral, scientific and agricultural improvement, by establishing a uniform system of Common Schools, and Schools of a higher grade, embracing normal, preparatory, collegiate, and university departments.

Sec. 3. The proceeds of all lands that have been, or may be, granted by the United States to the State, for the support of Schools, and the five hundred thousand acres of land granted to the new States, under an act of Congress distributing the proceeds of public lands among the several States of the Union, approved September 4, A.D. 1841 and all estates of persons dying without heir or will, and such per cent. as may be granted by Congress, on the sale of lands in this State, shall be the common property of the State, and shall be a perpetual School fund, which shall not be diminished, but the interest of which, together with all the rents of the lands, and such other means as the Legislature may provide, by tax or otherwise, shall be inviolably appropriated to the support of Common Schools.

Sec. 4. The income of the State School funds shall be disbursed annually, by order of the State Superintendent, to the several County Treasurers, and hence to the Treasurers of the several School districts, in equitable proportion to the number of children and youth resident therein, between the ages of five and twenty-one years; *Provided*, That no School District, in which a Common School has not been maintained at least three months in each year, shall be entitled to receive any portion of such funds.

Sec. 5. The School lands shall not be sold unless such sale shall be authorized by a vote of the people at a general election; but, subject to revaluation every five years, they may be leased for any number of years not exceeding twenty-five, at a rate established by law.

Sec. 6. All money which shall be paid by persons as an equivalent for exemption from military duty; the clear proceeds of estrays, ownership of which shall vest in the taker up; and the proceeds of fines for any breach of the penal laws, shall be exclusively applied in the several counties in which

the money is paid or fines collected, to the support of Common Schools.

Sec. 7. Provision shall be made by law for the establishment, at some eligible and central point, of a State University, for the promotion of literature, and the arts and sciences, including a Normal and an Agricultural department. All funds arising from the sale or rents of lands granted by the United States to the State for the support of a State University, and all other grants, donations or bequests, either by the State or by individuals, for such purpose, shall remain a perpetual fund, to be called the "University Fund;" the interest of which shall be appropriated to the support of the State University.

Sec. 8. No religious sect or sects shall ever control any part of the Common School or University funds of the State.

Sec. 9. The State Superintendent of Public Instruction, Secretary of State and Attorney General shall constitute a Board of Commissioners, for the management and investment of the School funds. Any two of said Commissioners shall be a quorum.

Sec. 10. The legislature may levy a permanent tax for the use and benefit of the state educational institutions and apportion among and appropriate the same to the several institutions, which levy, apportionment and appropriation shall continue until changed by statute. Nothing herein contained shall prevent such further appropriation by the legislature as may be deemed necessary from time to time for the needs of said state educational institutions. (Section 10 Ratified in 1918).

APPENDIX II.B.

KANSAS CONSTITUTION (1861)

ARTICLE VI (1966)--EDUCATION

Sec. 1. Schools and related institutions and activities. The legislature shall provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools, educational institutions and related activities which may be organized and changed in such manner as may be provided by law.

Sec. 2. State board of education and state board of regents. (a) The legislature shall provide for a state board of education which shall have general supervision of public schools, educational institutions and all the educational interests of the state, except educational functions delegated by law to the state board of regents. The state board of education shall perform such other duties as may be provided by law.

(b) The legislature shall provide for a state board of regents and for its control and supervision of public institutions of higher education. Public institutions of higher education shall include universities and colleges granting baccalaureate or postbaccalaureate degrees and such other institutions and educational interests as may be provided by law. The state board of regents shall perform such other duties as may be prescribed by law.

(c) Any municipal university shall be operated, supervised and controlled as provided by law.

Sec. 3. Members of State Board of education and state board of regents. (a) There shall be ten members of the state board of education with overlapping terms as the legislature may prescribe. The legislature shall make provision for ten member districts, each comprised of our contiguous senatorial districts. The electors of each member district shall elect one person residing in the district as a member of the board. The legislature shall prescribe the manner in which vacancies occurring on the board shall be filled.

(b) The state board of regents shall have nine members with overlapping terms as the legislature may prescribe. Members shall be appointed by the governor, subject to confirmation by the senate. One member shall be appointed from each congressional district with the remaining members appointed at large, however, no two members shall reside in the same county at the time of their appointment. Vacancies occurring on the board shall be filled by appointment by the governor as provided by law.

(c) Subsequent redistricting shall not disqualify any member of either board from service for the remainder of his term. Any member of either board may be removed from office for cause as may be provided by law.

Sec. 4. Commissioner of education. The state board of education shall

appoint a commissioner of education who shall serve at the pleasure of the board as its executive officer.

Sec. 5. Local public schools. Local public schools under the general supervision of the state board of education shall be maintained, developed and operated by locally elected boards. When authorized by law, such boards may make and carry out agreements for cooperative operation and administration of educational programs under the general supervision of the state board of education, but such agreements shall be subject to limitation, change or termination by the legislature.

Sec. 6. Finance. (a) The legislature may levy a permanent tax for the use and benefit of state institutions of higher education and apportion among and appropriate the same to the several institutions, which levy, apportionment and appropriation shall continue until changed by statute. Further appropriation and other provision for finance of institutions of higher education may be made by the legislature.

(b) The legislature shall make suitable provision for finance of the educational interests of the state. No tuition shall be charged for attendance at any public school to pupils required by law to attend such school, except such fees or supplemental charges as may be authorized by law. The legislature may authorize the state board of regents to establish tuition, fees and charges at institutions under its supervision.

(c) No religious sect or sects shall control any part of the public educational funds.

Sec. 7. Saving clause. (a) All laws in force at the time of the adoption of this amendment and consistent therewith shall remain in full force and effect until amended or repealed by the legislature. All laws inconsistent with this amendment, unless sooner repealed or amended to conform with this amendment, shall remain in full force and effect until July 1, 1969.

(b) Notwithstanding any other provision of the constitution to the contrary, the state superintendent of public instruction or county superintendent of public instruction shall be elected after January 1, 1967.

(c) The state perpetual school fund or any part thereof may be managed and invested as provided by law or all or any part thereof may be appropriated, both as to principal and income, to the support of the public schools supervised by the state board of education.

APPENDIX II.C.

COLBURN COMMITTEE--

PROPOSED ARTICLE VI (1965)

Sec. 1. Schools and related institutions and activities. (a) The legislature shall provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools, educational institutions and related activities which may be organized and changed in such manner as may be provided by law.

(b) There shall be no discrimination on the basis of race, creed, sex or national origin of persons in the public schools or public educational institutions.

Sec. 2. State board of education and state board of regents. (a) The legislature shall provide for a state board of education which shall have general supervision of all the public schools, educational institutions and related activities. Such general supervision shall be inclusive of vocational schools, community junior colleges, all the educational interests of the state and all aspects of education, except institutions of higher education supervised by the state board of regents. The state board of education shall perform such other duties as may be provided by law.

(b) The legislature shall provide for a state board of regents which shall supervise public institutions of higher education and related activities. Public institutions of higher education shall include universities and colleges granting baccalaureate or post-baccalaureate degrees. The state board of regents shall perform such other duties as may be prescribed by law.

(c) Any municipal university shall be operated, supervised and controlled as provided by law.

Sec. 3. Members of state board of education and state board of regents. (a) Members of the state board of education and members of the state board of regents shall serve overlapping terms of not less than six years nor more than nine years as the legislature may prescribe. Members of the first boards established under this section may be appointed for terms of less than six years.

(b) Members of the state board of education and members of the state board of regents shall be appointed by the governor, subject to confirmation by the senate.

(c) Any member of the state board of education or the state board of regents may be removed from office by the governor for cause as may be provided by law. Vacancies occurring on either board shall be filled by appointment by the governor as provided by law.

Sec. 4. Commissioner of education. The state board of education shall appoint and fix the compensation of a commissioner of education who shall

serve at the pleasure of the board as its executive officer.

Sec. 5. Local public schools. Local public schools under the general supervision of the state board of education shall be operated by locally elected boards. When authorized by law, such boards may make and carry out agreements for cooperative operation and administration of educational programs under the general supervision of the state board of education, but such agreements shall be subject to limitation, change or termination by the legislature.

Sec. 6. Finance. (a) The legislature may levy a permanent tax for the use and benefit of public institutions of higher education and apportion among and appropriate the same to the several institutions, which levy, apportionment and appropriation shall continue until changed by statute. Further appropriation and other provision for finance of institutions of higher education may be made by the legislature.

(b) The legislature may make provision for finance of educational and scientific activity by: (1) Transfer of funds or appropriations from one object or fund to another by the legislature, the state board of regents or the state board of education, (2) appropriation of revenue measures for periods greater than two years, (3) creation of special corporate entities authorized to perform any function related to education or scientific research, (4) pooling of public and private funds for educational research purposes, (5) any other method not prohibited by the constitution.

(c) No tuition shall be charged by any public school to pupils required by law to attend school, except as otherwise provided in this subsection. The legislature may authorize tuition to be charged to pupils required by law to attend school when such pupils voluntarily attend school outside of their territory of residence. Fees or supplemental charges may be authorized by the legislature under regulation and supervision of the state board of education or the state board of regents.

(d) The state board of regents and the state board of education in accordance with law may: (1) Allocate among and within the institutions and activities under their respective supervision such funds as the legislature may appropriate, and (2) receive, manage, expend and invest funds from any source.

(e) No religious sect or sects shall control any part of the public educational funds.

Sec. 7. Fines to be appropriated for school purposes. Proceeds of fines for any breach of the penal laws shall be deposited in the state treasury and appropriated by the legislature for educational purposes only.

Sec. 8. Saving clause. (a) All laws in force at the time of the adoption of this amendment and consistent therewith shall remain in full force and effect until amended or repealed by the legislature. All laws inconsistent with this amendment, unless sooner repealed or amended to conform with this amendment, shall remain in full force and effect until July 1, 1969.

(b) Notwithstanding any other provision of the constitution to the contrary, no state superintendent of public instruction or county superintendent of public instruction shall be elected after January 1, 1967.

(c) The state perpetual school fund as it exists on the effective date of this amendment shall be subject to disposition by the legislature both as

to principal and income, but shall be appropriated only for educational purposes.

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III - MICHIGAN STATE EDUCATION AGENCY--
TRANSITION 1965

<u>Contents</u>	<u>Pages</u>
Brief History to 1963	93
Constitution	94
State Board of Education	94
Superintendent of Public Instruction	102
The Change--The Period from 1963 to 1965	104
A Review and Appraisal of the Governing Structure by the Michigan Study Participants	108
<hr/>	
Appendix III - Michigan	113
III.A. - Michigan Constitution (1835) Article X--Education	114
III.B. - Michigan Constitution (1850) Article XIII--Education	115
III.C. - Michigan Constitution (1908) Article XI--Education	117
III.D. - Michigan Constitution (1963) Article 8--Education	120
<hr/>	
Table 3 - Comparison of the Education Articles of the 1835, 1850, and 1908 Michigan Constitutions with the 1963 Michigan Constitution	95
Figure 3 - Key Events in Michigan State Education Agency Development	96
<hr/>	
Bibliography.	123

MICHIGAN

STUDY PARTICIPANTS

Individual meetings held on March 8-9, 1973, in Lansing, Michigan, at the Michigan Department of Education (520 Michigan National Tower), The Michigan State House, and several other locations.

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CHAPTER III

MICHIGAN STATE EDUCATION AGENCY--

TRANSITION 1965

Brief History to 1963

The early history and development of the Michigan State Department of Education has been described in a chapter of a book dealing with the fifty state departments of education: the chapter was prepared by the Department of Education staff.¹ Michigan's Legislature has been charged with the responsibility for establishing a system of public education in each of the State's four constitutions.² The first three constitutions mentioned only the common or primary schools: the last one specifically stated "elementary and secondary schools." Several constitutional arrangements were made for the state-level governance of primary and/or secondary education and these will be reviewed later. Michigan has always had a constitutional Superintendent of Public Instruction, but has tried several methods of selecting this officer.³ A state board of education was called for by the 1850, 1908,

¹ Jim B. Pearson and Edgar Fuller, eds., Education in the States: Historical Development and Outlook (Washington, D.C.: National Education Association of the United States, 1969), pp. 593-618. Chapter 22 concerns Michigan.

² Michigan Const. (1835) art. X, sec. 3; Michigan Const. (1850) art. XIII, sec. 4; Michigan Const. (1908) art. XI, sec. 9; Michigan Const. (1963) art. 8, sec. 2.

³ Michigan Const. (1835) art. X, sec. 1; Michigan Const. (1850) art. XIII, sec. 1; Michigan Const. (1908) art. XI, sec. 2; and Michigan Const. (1963) art. 8, sec. 3.

94
and 1963 constitution but was not mentioned in the 1835 constitution.⁴ The state has had a strong commitment to education and dissemination of knowledge down through the years as evidenced by its interest in, and support of, libraries at the local level.⁵ Fines collected by the state and its subdivisions for the violation of penal laws have been dedicated since 1835 to the support of this statewide library system.

Constitution

A brief comparison of the 1835, 1850, and 1908 Constitutions with the 1963 Constitution can be found in Table 3. A variety of study papers were prepared for the 1963 Michigan Constitutional Convention, some of which related directly to education. A paper by Leu concerning elementary and secondary education reviewed the 1835, 1850, and 1908 Constitutions.⁶ This paper also included the education articles in the two Constitutions which were proposed, but not ratified, in 1867 and 1873.

State Board of Education

Michigan has had a State Board of Education since 1850, but the duties of the board were quite limited until 1963. Figure 3 presents some of the key milestones in the development of the Michigan state governing structure for elementary and secondary education, including the portion pertaining to

⁴ Michigan Const. (1850) art. XIII, sec. 9.; Michigan Const. (1908) art. XI, sec. 6; Michigan Const. (1963) art. 8, sec. 3.

⁵ Michigan Const. (1835) art. X, sec. 4; Michigan Const. (1850) art. XIII, sec. 12; Michigan Const. (1908) art. XI, sec. 14; Michigan Const. (1963) art. 8, sec. 9.

⁶ Donald J. Leu, Elementary and Secondary Education and The Michigan Constitution. Report to the Constitutional Convention Preparatory Commission, Lansing, Michigan, September 1961 (Lansing, Michigan: State of Michigan, 1961). See also Constitutional Convention Citizens' Advisory Committee on Education, Report of the Committee prepared for the Governor, John B. Swainson, Citizens Advisory Committee Report--Education (Lansing, Michigan: State of Michigan, 1961).

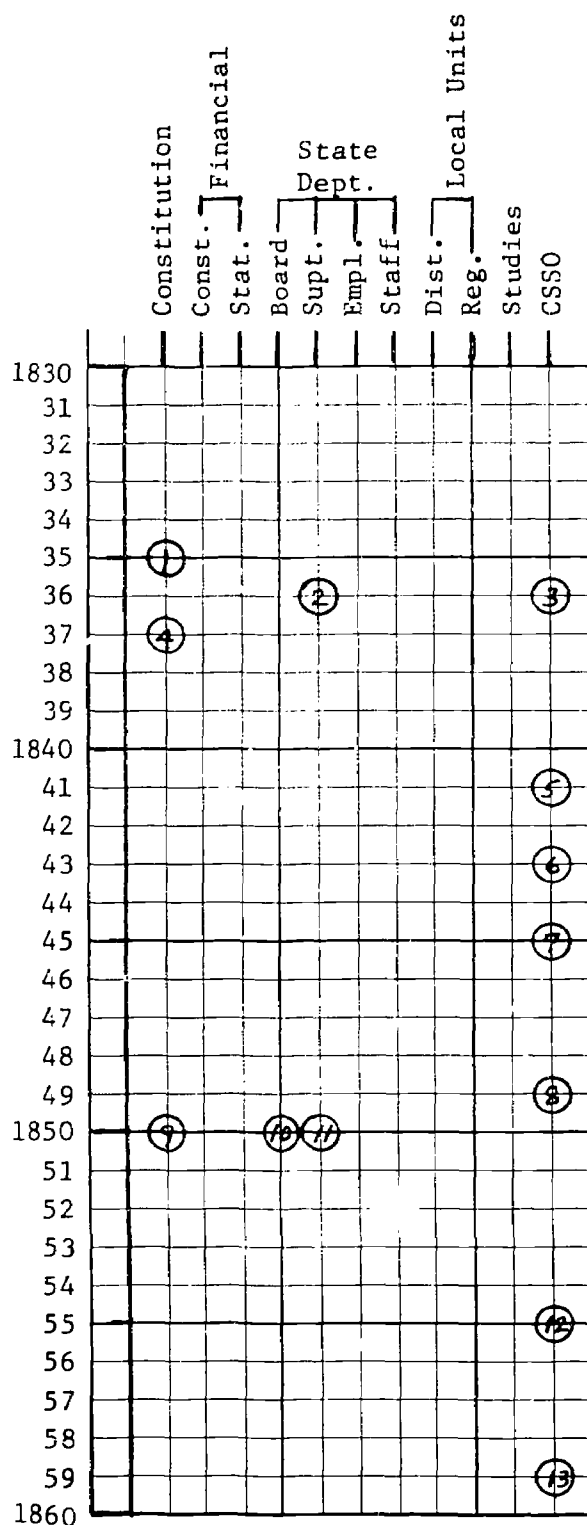
TABLE 3

COMPARISON OF THE EDUCATION ARTICLES OF THE 1835, 1850, AND 1908 MICHIGAN CONSTITUTIONS WITH THE 1963 MICHIGAN CONSTITUTION

Sect. No. of Art. 6 1963 Const.	Sect. No. of Art. XI 1908 Const.	Sect. No. of Art. XIII 1850 Const.	Sect. No. of Art. X 1835 Const.
1. Encouragement of education.	1. Identical.	11. Included agri- cultural schools.	2. Included dedication of land sale monies to education.
2. Legislature to maintain system of free public elementary and sec- ondary schools; no discrimina- tion permitted.	9. Limited in scope (primary schools). 11. & 12. Finance of schools from land monies.	4. Much more limited in scope (primary schools). 5. Terms of school operation detailed. 2. & 3. Land monies used to support schools.	3. Much more limited in scope (common schools).
3. Created State Board of Education; established conditions of election and terms; established duties of board including leadership and general supervision over all of public education.	6. Created 4-member board, six year terms for three members. One ex officio member. Super-vise normal schools.	9. Four member board, six year terms for three members. One ex officio member. Sup- ervise normal schools.	No counterpart.
Establish office of State Super- intendent (board appointed) and prescribe this officer's duties.	2. Provided for elec- tion of State Supt. for 2-year term. Prescribed duties.	1. Provided for duties of State Supt. (see also Art. VII, sec. 1)	1. Governor-appointed State Supt. w/confirm- ation by vote of Legisla- ture.
4., 5., & 6. Higher education support, management, and accountability.	3., 4., 5., 7. (State Bd. of Agric.), 8., 10., 13. (Financing of Agric. College)	6., 7., 8., 11.	5. Very limited in scope (funds).
7. Community and junior colleges; advisory board to State Board of Education.	No counterpart.	No counterpart.	No counterpart.
8. Services to handicapped persons.	15. Types of handicapped mentioned.	10. Types of handi- capped mentioned.	No counterpart.
9. Public libraries and their financial support through the use of fines.	14. Basic concept the same (township and city school units mentioned).	12. Same basic concept (township unit men- tioned).	4. Basic concept the same (township unit mentioned).

FIGURE 3

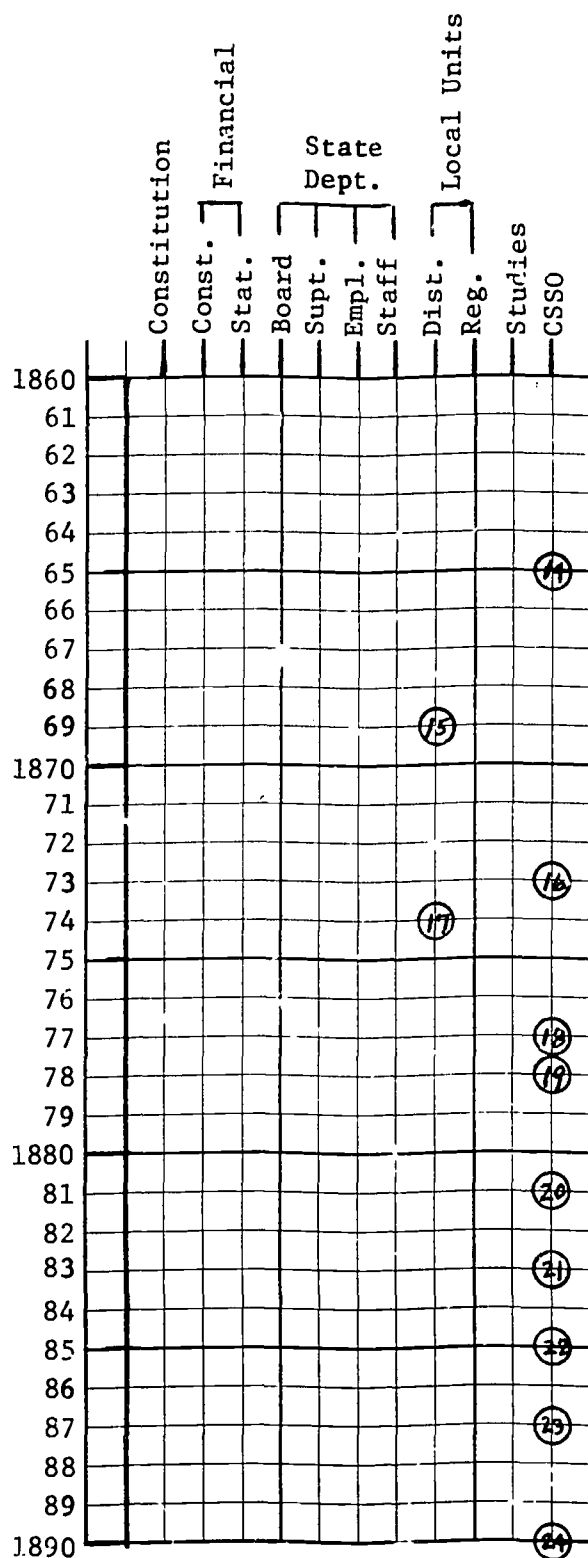
KEY EVENTS IN MICHIGAN STATE EDUCATION AGENCY DEVELOPMENT



Events

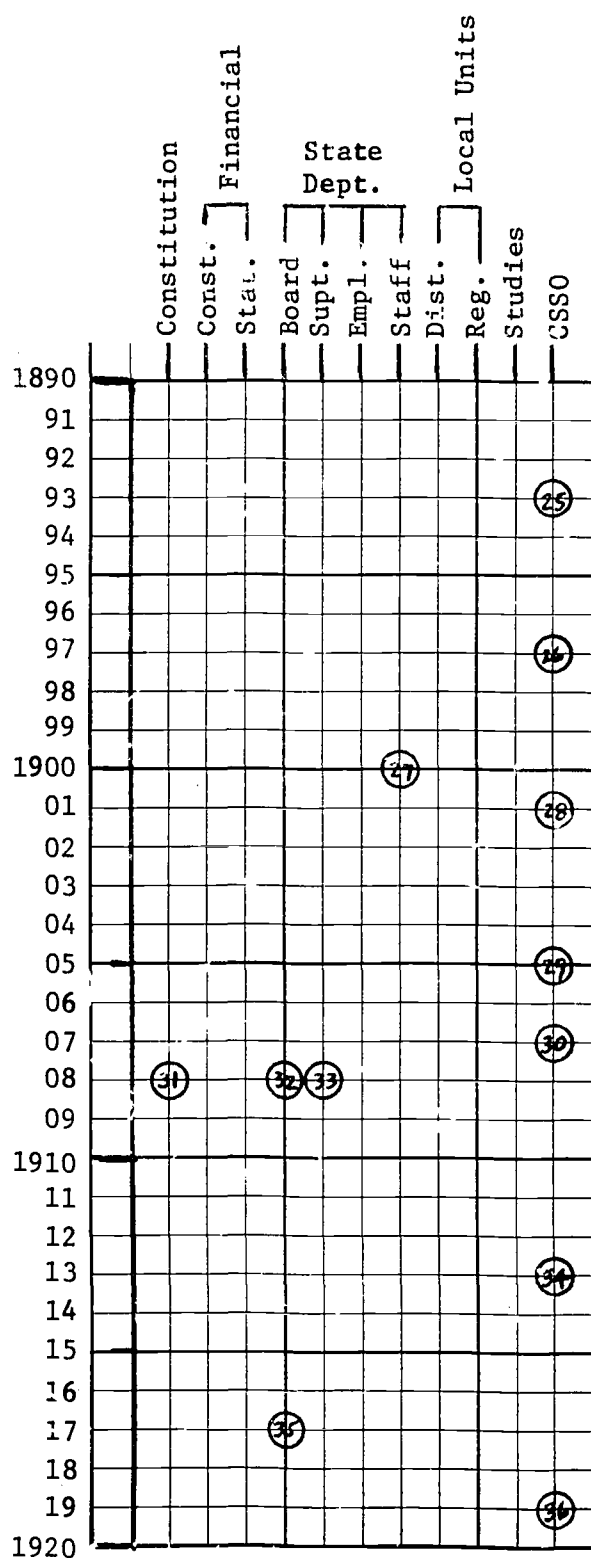
1. First Constitution adopted by Convention on 6/24/1835.
Ratified on 10/5-6/1835.
2. Governor-appointed State Supt. provided for by Constitution.
3. John D. Pierce, 1836-41
4. Statehood granted on 1/26/1837
5. Franklin Sawyer, Jr., 1841-43
6. Oliver C. Comstock, 1843-45
7. Ira Mayhew, 1845-49
8. Francis W. Sherman, 1849-55
9. Second Constitution adopted by Convention on 8/15/1850.
Ratified on 11/5/1850.
10. State Board of Education created by second Constitution.
11. Constitution provided for an elected Supt. of Public Instruction; two-year term.
12. Ira Mayhew, 1855-59
13. John M. Gregory, 1859-65

FIGURE 3--Continued

Events

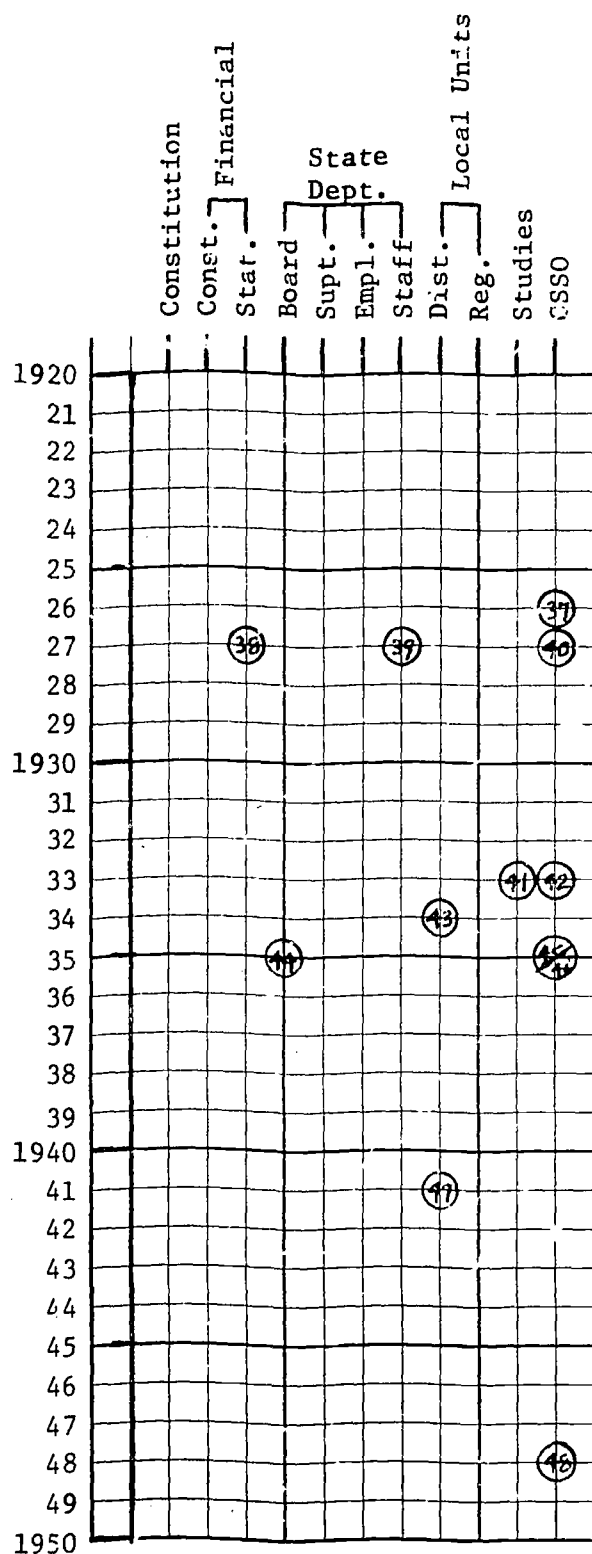
14. Oramel Harford, 1865-73
15. Free schools provided within the state.
16. Daniel B. Briggs, 1873-77
17. Stuart v. School District No. 1 of the Village of Kalamazoo 30 Mich. 69 (1874). Gave school district the right to levy taxes in support of high schools (free public high schools).
18. Horace S. Tarbell, 1877-78
19. Cornelius A. Gower, 1878-81
20. Varnum B. Cochran, 1881-83
21. Herschel R. Gass, 1883-85
22. Theodore Nelson, 1885-87
23. Joseph Estabrook, 1887-90
24. Ferris S. Fitch, 1890-93

FIGURE 3--Continued

Events

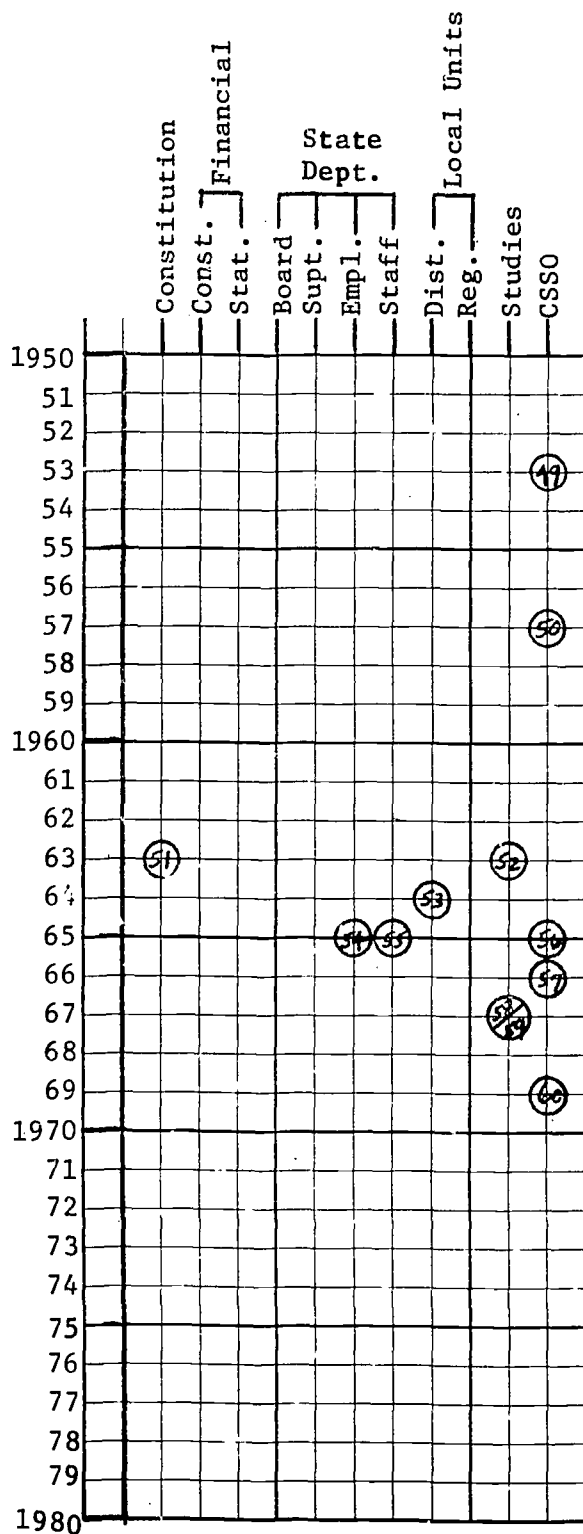
25. Henry R. Pattengill, 1893-97
26. Jason E. Hammond, 1897-1901
27. Staff Size = 12
(State Supt., Deputy, Chief Clerk, 3 Statisticians, Editor, 3 Stenographers, Shipping Clerk, and Janitor)
28. Delos Fall, 1901-05
29. Patrick H. Kelley, 1905-07
30. Luther L. Wright, 1907-13
31. Third Constitution adopted by Convention on 3/3/1908. Ratified on 11/3/1908.
32. State Board of Education under the Third Constitution was created.
33. Elective State Superintendent of Public Instruction was provided for in the Constitution (third).
34. Fred L. Keeler, 1913-19
35. State Board of Control for Vocational Education was created.
36. Thomas E. Johnson, 1919-26

FIGURE 3--Continued

Events

37. Wilford L. Coffey, 1926-27
38. Beginning of substantial state aid.
39. Staff Size = 32
40. Webster H. Pearce, 1927-33
41. Planning Commission on Teacher Training and Certification (created by State Board of Education).
42. Paul F. Voelker, 1933-35
43. Fed. Emergency Relief Admin. sponsored study on organization of school district government in Michigan.
44. Development of state curriculum planning unit: forerunner of Michigan Cooperative Curriculum Program.
45. Maurice R. Keyworth
Elected in 1935, died before taking office.
46. Eugene B. Elliott, 1935-48
47. Community school concept advanced by State Supt. Elliott.
48. Lee M. Thurston, 1948-53

FIGURE 3--Continued



Events

49. Clair L. Taylor, 1953-57
50. Lynn M. Bartlett, 1957-65
51. Fourth Constitution adopted by Convention on 8/1/1962. Ratified on 4/1/1963. Effective date 1/1/1964.
52. State Advisory Committee re-edited code on teacher education and certification.
53. Legislature passes law to make K-12 districts reorganize.
54. State Department of Education (replaces Department of Public Instruction).
55. Staff size = 1300
56. Alexander Kloster, Acting State Superintendent from 7/1/1965 to 4/30/1966
57. Ira Polley, 1966-69
58. Thomas Study of financing K-12 education presented to Michigan State Board of Education.
59. Keppel Study on teacher education and certification.
60. John Porter, 1969-Pres.

the State Board of Education.

The first State Board of Education, created by the 1850 Constitution, stated that the "board shall have general supervision of the State Normal School, and their duties shall be prescribed by law."⁷ This Constitution provided for a three-member, elected board beginning with the general election in 1852. Six-year terms were prescribed for members and the terms were staggered on a two-year basis. The superintendent of Public Instruction was made an ex officio member and secretary of the board.

The next major change occurred in 1908 with the adoption of the third Constitution. At this time, the State Board of Education was created as a four-member, elected board.⁸ The State Superintendent of Public Instruction was an ex officio member and secretary of the board. This law developed a unique method of staggering terms--one person was elected for a six-year term at each biennial spring election. This meant that the board "carried over" four members from the previous Constitutional provisions, making it July 1, 1913, before all members would derive their appointments from the provisions of the 1908 Constitution.⁹

The boards created by the second and third Constitutions (1850 and 1908) were devoted primarily to the teacher education area. Attempts were made to broaden the scope of the State Board of Education by including such responsibilities as statewide teacher certification, etc., but these were accomplished with a limited degree of success. The State Board of Education was given the power "to prescribe courses of study, issue licenses and certificates, and grant diplomas and degrees in connection with several educa-

⁷Michigan Const. (1850) Art. XIII, sec. 9.

⁸Michigan Const. (1908) art. XI, sec. 3.

⁹Michigan, Acts (1909), c.216.

tional institutions of the State, . . ." in 1935.¹⁰

Another special purpose board, the State Board of Control for Vocational Education, was created by the Michigan Legislature in 1917 to administer vocational education.¹¹ The provisions of this law were expanded by an act of the Legislature in 1919.¹²

Superintendent of Public Instruction

The first Michigan Constitution called for the appointment of the State Superintendent of Public Instruction by the Governor for a two-year term.¹³ It specified that the duties of the State Superintendent should be prescribed by statute. This particular Constitution called for a confirmation vote of the office by a joint vote of the Legislature.

This procedure remained in effect until the people of Michigan ratified the second Constitution in 1850. In this Constitution, the office was mentioned but the method of selection and tenure were not mentioned in Article X. Instead, the framers of this Constitution chose to pool all other state elected officers under another article.¹⁴ Article VIII included a statement which provided for the election, at the general biennial election, of the State Superintendent of Public Instruction for a two-year term beginning with the general election of 1852.¹⁵ Each state officer would take office on January 1 of the year following the election. The details concerning the

¹⁰Michigan, Acts (1935), c.55.

¹¹Michigan, Acts (1917), c.189. See also Pearson and Fuller, op. cit., p.610.

¹²Michigan, Acts (1919), c.149. See also Pearson and Fuller, op.cit., p.610.

¹³Michigan Const. (1835) art. X, sec. 1.

¹⁴Michigan Const. (1850) art. VIII, sec. 1.

¹⁵Michigan Const. (1850) art. VIII, sec. 1.

election of state officials were spelled out in an 1851 act of the Legislature.¹⁶ Duties of the State Superintendent were detailed by that same Legislature.¹⁷ This act detailed many duties, most of which concerned reporting requirements, publication and distribution of school laws, and distribution of state monies to the schools. In addition to these duties, he was made an ex officio member and secretary of the State Board of Education.¹⁸

Another Constitution adopted in 1908 placed all details concerning the State Superintendent of Public Instruction in the Education Article.¹⁹ This Constitution required that the State Superintendent be elected on the first Monday in April, beginning in 1909, and on every second year thereafter. The term of office was established as two years with the term commencing on July 1 following the election. As in the 1850 Constitution, the State Superintendent was charged with the "general supervision of public instruction."²⁰ He was made ex officio member and secretary of the State Board of Education by Constitutional provision.²¹ In addition, however, the Constitution gave him ex officio non-voting membership on a number of boards having control of public instruction in the State of Michigan.²² As in the

¹⁶Michigan, Acts (1851), c.175.

¹⁷Michigan, Acts (1851), c.99.

¹⁸Michigan Const. (1908) art. XI, sec. 2.

¹⁹Michigan Const. (1850) art. XIII, sec. 9.

²⁰Michigan, Acts (1851), c.99, s.1; Michigan Const. (1908) art. XI, sec. 2.

²¹Michigan Const. (1908) art. XI, sec. 2.

²²Ibid.

two earlier constitutions, his duties were provided for by statute; in addition, the 1908 Constitution specified that the compensation of the State Superintendent would be established by statute. The 1909 Legislature implemented the Constitutional provisions by spelling out the duties of the State Superintendent.²³ They included: general supervision of the public schools and state institutions which are basically educational in nature; visitation of institutions; enforcement of school laws, examination and auditing of records and accounts of school districts; direction of the supervision of the County normal schools; preparation and transmission of an annual report to the Governor; etc. This same act also mentioned the Department of Public Instruction and provided for a Deputy State Superintendent.²⁴

The State Superintendent of Public Instruction in Michigan was made a member of many boards over the years since the adoption of the 1908 Constitution. Leu, in his report to the Constitutional Convention Preparatory Commission, pointed out that a State Superintendent who attended all of the board meetings of which he was a member, would spend some 18 days a month in this activity.²⁵

The Change--The Period from 1963 to 1965

Michigan's venture into the revision of the state-level governing structure for elementary and secondary education stemmed from the results of the successful Constitutional Convention referendum of April 3, 1961.²⁶ On

²³Michigan, Acts (1909), c.9.

²⁴Ibid.

²⁵Leu, op.cit., p.6. See also Appendix C of this paper and especially pp. 24-5.

²⁶Constitution of the State of Michigan (Lansing, Michigan: Secretary of State, 1963), p.3. (not numbered).

September 12, 1961, 164 delegates were elected: they met at Convention Hall, Lansing, Michigan, beginning on October 3, 1961, and ending on August 1, 1962.²⁷ The result of the Convention was the 1963 Michigan Constitution which was ratified on April 1, 1963: the vote, established by recount, was 810,860 (50.23%) Yes and 803,436 (49.77%) No.

The adoption of a Constitution, as opposed to a Constitutional Amendment or a statutory change, presents a somewhat different situation. In this case, the delegates must weigh and balance the entire governmental structure, and education becomes just one of many considerations. The study participants agreed that there was considerable discussion and a series of compromises about each aspect of the educational governing structure. Most agreed that the decision which eventually resulted in an elected State Board of Education represented a concession to the conservative elements in the convention. These elements felt that the selection of board members should be left up to the people in concert with Jacksonian philosophy. Concerning the State Superintendent of Public Instruction the delegates reasoned that the office should be continued because of its long tradition in Michigan history and they eventually settled upon appointment as the method of selection.

The principal features of the 1963 Constitution, education article, were:

1. It provided for a State Board of Education which was charged with the "leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to institutions of higher education granting baccalaureate degrees, . . ."²⁸
2. It provided for an eight member State Board of Education. Members are nominated by party conventions and elected at large for terms of eight years as detailed in statute.

²⁷ Ibid.

²⁸ Michigan Const. (1963) art. 8, sec. 3.

The governor is authorized to fill vacancies by appointment for the unexpired term and is an ex officio member of the board.²⁹

3. It provided that the State Board of Education "shall serve as the general planning and coordinating body for all public education, including higher education, and shall advise the legislature as to the financial requirements in connection therewith." There was a proviso, however, which limited the powers of the board to the extent that the boards of higher education institutions were given powers to "supervise their respective institutions and control and direct the expenditure of the institutions' funds. . ."³⁰

4. It provided that the Legislature "shall maintain and support a system of free public elementary and secondary schools as defined by statute."³¹

5. It provided for a State Board for Public and Community and Junior Colleges which shall "advise the State Board of Education concerning general supervision and planning for such colleges and requests for annual appropriations for their support."³²

6. It provided that the Legislature should continue to provide for, by law, a state-wide system of libraries. Fines assessed and collected for breach of penal laws are to be dedicated to the support of public and county law libraries.³³

Implementation details were partially included in the 1963 Constitution: several affected education and were heeded in Legislative implementation.³⁴ The implementation of this Constitution concerning the state-level governing structure for elementary and secondary education was basically contained in a 1964 act of the Michigan Legislature.³⁵ The "old board" was allowed to continue until January 1, 1965, at which time the board created under the

²⁹ Ibid.

³⁰ Michigan Const. (1963) art. 8, sec. 3.

³¹ Ibid., sec. 2.

³² Ibid., sec. 7.

³³ Ibid., sec. 9.

³⁴ Michigan Const. (1963) art. 12 (Schedule and Temporary Provisions), sec. 3,4,9,10 and 11.

³⁵ Michigan, Acts (1964), c.287.

1963 Constitution took effect.³⁶ Dr. Bartlett's office as State Superintendent of Public Instruction, derived from the provisions of the 1908 Constitution, was protected by law until June 30, 1965.³⁷ Powers and duties for the board were spelled out in the 1964 act and the basic powers and duties for the State Superintendent were delineated in a 1965 act of the Legislature.³⁸ Basically, the powers of the board, as set out in the 1964 act, concerned: teacher certification and licensing; jurisdiction and control over the operations of the deaf and blind schools and the rehabilitation institute; regulation of school bus transportation; inspection of educational corporations; appointment of the members of the State Board of Public Community and Junior Colleges.³⁹ The Legislature also required of the State Board of Education an annual financial statement and advice as to the financial needs of all of public education in the fiscal period(s) ahead.⁴⁰

Dr. Bartlett served with the new board beginning in January 1965 and running through June 1965. Dr. Bartlett began the first meeting of the State Board of Education on January 13, 1965, and stated "that in my opinion the new State Board of Education is the most important to have been created by the 1963 Constitution and that a tremendous challenge and opportunity lie before it."⁴¹ Mr. Alexander Kloster served as Acting State Superintendent

³⁶Ibid., sec. 1.

³⁷Ibid.

³⁸Michigan, Acts (1964), c.287, s.10; Michigan, Acts (1965), c.140, s.1.

³⁹Michigan, Acts (1964), c.287, s.10.

⁴⁰Ibid.

⁴¹Bartlett, Lynn M., speech before the Michigan State Board of Education on January 13, 1965, Minutes of the State Board of Education for the Period January 1, 1965, to June 30, 1965 (Lansing, Michigan: Michigan State Board of Education, 1966), p.2.

of Public Instruction from July 1, 1965 until April 30, 1966. He was replaced on May 1, 1966, by Dr. Ira Polley who served as the board-appointed State Superintendent until October 1969. Dr. John Porter was appointed to the position in October 1969 and still serves in that position.

A Review and Appraisal of the Governing Structure
By the Michigan Study Participants

The study participants were asked a number of questions concerning the structure established by the 1963 Constitution and the legislative implementation resulting therefrom. These participants were interviewed on an individual basis: there was no interchange of opinion among participants.

First, there was considerable disagreement on several aspects of the governing structure of the State Department of Education. The point receiving most discussion concerned the State Board of Education and its method of selection. The participants were about equally divided on how the State Board of Education should be selected. Several favored retaining the office of State Superintendent of Public Instruction as an elective position with, at most, a weak advisory board. Several suggested that a governor-appointed, senate-confirmed State Board of Education which appoints the State Superintendent of Public Instruction might be a workable concept. Governor Milliken has advocated this position, most recently in a February 7, 1973, pronouncement.⁴² One held the viewpoint that a governor-appointed State Superintendent would be a more workable situation. The principal arguments advanced by the participants centered around considerations such as responsiveness, the "public stature" of the State Superintendent of Public Instruction, the administrative skill of the State Superintendent, and the relation-

⁴²William G. Milliken, Special Message to the Legislature on Education (Lansing, Michigan: Executive Office, February 7, 1973). (Typewritten.)

ships between the State Education Agency (the collective composed of State Superintendent, the State Board of Education, and the State Department of Education), the Governor, and the Legislature. Concerning the present Constitutional provisions for the Board, several commented that State Board of Education members are selected near the end of the nominating convention and that frequently they have had little prior board experience. Several of these participants commented that a spring election may have been more advantageous to avoid the coattail effect" when running on a ticket with a popular president or governor.

Another area of concern expressed by participants regarded the assignment of powers to the State Board of Education. There seems to be sufficient vagueness in the Constitution concerning the powers of the State Board of Education that there have been jurisdictional questions raised about the relationship of the State Board of Education to the Legislature with regard to the exercising of those powers; thus, a potential conflict situation exists. One area frequently mentioned was higher education and the "general planning and coordinating body" concept as it applied to higher education. Several participants suggested that a closer look should have been taken at this area: possibly this total responsibility was far too much to ask of the board. One of these participants suggested that elementary and secondary education alone was an adequate responsibility for the board. About half of the participants suggested that they would have reduced the Constitutional language concerning governing structure details.

Second, there was not total agreement on the smoothness of the transition. Several felt that there were several problem areas. One of these concerned the transition of powers from the last elected State Superintendent of Public Instruction to the new State Board of Education. By Constitutional provision, the State Board of Education assumed its duties on January 1, 1965: the State

Superintendent of Public Instruction elected in 1963 retained his office until July 1, 1965. The orderly transfer of powers under this situation was not adequately provided for in their opinion. Further, several suggested that a rather significant period of time passed in selecting the first appointed State Superintendent of Public Instruction. Coupled with this was the time required by the Board to determine its role and its relationship to other important state officers, i.e., the Governor and Legislators. At least one observed that the board has been divided on some issues which caused it problems during the transition. About one half favored an odd-numbered board with 7 to 9 members on it to alleviate the problem of even splits. One participant suggested that the number of members, eight, was arrived at by default.⁴³ He pointed out the original proposal to the Constitutional Convention was for the Governor to be a voting member of the board: the Convention did not accept this concept but failed to change the board size to an odd number. One participant felt that the transition was relatively smooth, partly because of the long time available to the board to work with the last elected State Superintendent. Two participants suggested that the lack of adequate funding to properly staff the department was seriously lacking during the transition period (and after).

Third, the effect that the Civil Service system had upon the transition was not clear cut. Most participants suggested that personnel changes were few and that the effect of the Civil Service system was relatively minor. However, since Michigan has had a strong civil service system down through the years, it is very difficult to opine what might have happened had it not been there.

43

See also Constitutional Convention of Michigan Committee Proposal No. 47 (Lansing, Michigan: State of Michigan, January 31, 1962).

Because of the divergence of opinion expressed by the Michigan respondents on their preference of a governing structure, the author questioned the validity of presenting any further opinions. Most of the opinions and observations which normally follow this section are highly method-of-selection dependent, hence, the summary would be relatively meaningless. One area in which there was considerable agreement, however, was that pertaining to meetings between the State Board of Education and the State Superintendent, the Governor or his representative, and the Legislative leaders (particularly the education and appropriation committee members). They felt that the meetings should be informal and devoted to policy discussions.

APPENDIX III

MICHIGAN

APPENDIX NUMBER	TITLE	PAGES	
		FROM	TO
III.A.	Michigan Constitution (1835) Article X--Education	114	114
III.B.	Michigan Constitution (1850) Article XIII--Education	115	116
III.C.	Michigan Constitution (1908) Article XI--Education	117	119
III.D.	Michigan Constitution (1963) Article 8--Education	120	122

APPENDIX III.A.

MICHIGAN CONSTITUTION (1835)

ARTICLE X--EDUCATION

Sec. 1. The Governor shall nominate, and, by and with the advice and consent of the Legislature in joint vote, shall appoint, a Superintendent of Public Instruction, who shall hold his office for two years, and whose duties shall be prescribed by law.

Sec. 2. The Legislature shall encourage, by all suitable means, the promotion of intellectual, scientific, and agricultural improvement. The proceeds of all lands that have been or hereafter may be granted by the United States to this State, for the support of schools, which shall hereafter be sold or disposed of, shall be and remain a perpetual fund; the interest of which, together with the rents of all such unsold lands, shall be inviolably appropriated to the support of schools throughout the State.

Sec. 3. The Legislature shall provide for a system of common schools, by which a school shall be kept up and supported in each school district at least three months in every year; and any school district neglecting to keep up and support such a school may be deprived of its equal proportion of the interest of the public fund.

Sec. 4. As soon as the circumstances of the State will permit, the Legislature shall provide for the establishment of libraries, one at least in each township; and the money which shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines assessed in the several counties for any breach of the penal laws, shall be exclusively applied for the support of said libraries.

Sec. 5. The Legislature shall take measures for the protection, improvement, or other disposition of such lands as have been or may hereafter be reserved or granted by the United States to this State for the support of a university; and the funds accruing from the rents or sale of such lands, or from any other source for the purpose aforesaid, shall be and remain a permanent fund for the support of said university, with such branches as the public convenience may hereafter demand for the promotion of literature, the arts and sciences, and as may be authorized by the terms of such grant: and it shall be the duty of the Legislature, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said university.

APPENDIX III.B.

MICHIGAN CONSTITUTION (1850)

ARTICLE XIII--EDUCATION

Sec. 1. The Superintendent of Public Instruction shall have the general supervision of public instruction, and his duties shall be prescribed by law.

Sec. 2. The proceeds from the sales of all lands that have been or hereafter may be granted by the United States to the State, for educational purposes, and the proceeds of all lands or other property given by individuals or appropriated by the State for like purposes, shall be and remain a perpetual fund, the interest and income of which, together with the rents of all such lands as may remain unsold, shall be inviolably appropriated and annually applied to the specific objects of the original gift, grant or appropriation.

Sec. 3. All lands, the titles to which shall fail from a defect of heirs, shall escheat to the State; and the interest on the clear proceeds from the sales thereof, shall be appropriated exclusively to the support of primary schools.

Sec. 4. The Legislature shall, within five years from the adoption of this constitution, provide for and establish a system of primary schools, whereby a school shall be kept without charge for tuition, at least three months in each year, in every school district in the State; and all instruction in said schools shall be conducted in the English language.

Sec. 5. A school shall be maintained in each school district at least three months in each year. Any school district neglecting to maintain such school, shall be deprived for the ensuing year of its proportion of the income of the primary school fund, and of all funds arising from taxes for the support of schools.

Sec. 6. There shall be elected in each judicial circuit, at the time of the election of the judge of such circuit, a regent of the University, whose term of office shall be the same as that of such judge. The regents thus elected shall constitute the Board of Regents of the University of Michigan.

Sec. 7. The regents of the University, and their successors in office, shall continue to constitute the body corporate, known by the name and title of "the Regents of the University of Michigan."

Sec. 8. The regents of the University shall, at their first annual meeting, or as soon thereafter as may be, elect a President of the University, who shall be ex officio a member of their board, with the privilege of speaking but not of voting. He shall preside at the meetings of the regents, and be the principal executive officer of the University. The board of regents shall have the general supervision of the University, and the direction and control of all expenditures from the University interest fund.

Sec. 9. There shall be elected at the general election in the year one thousand eight hundred and fifty-two, three members of a State Board of Education, one for two years, one for four years, and one for six years; and at each succeeding biennial election there shall be elected one member of such board, who shall hold his office for six years. The Superintendent of Public Instruction shall be ex officio a member and secretary of such board. The board shall have the general supervision of the State Normal School, and their duties shall be prescribed by law.

Sec. 10. Institutions for the benefit of those inhabitants who are deaf, dumb, blind or insane, shall always be fostered and supported.

Sec. 11. The Legislature shall encourage the promotion of intellectual, scientific and agricultural improvement; and shall, as soon as practicable, provide for the establishment of an agricultural school. The Legislature may appropriate the twenty-two sections of salt spring lands now unappropriated, or the money arising from the sale of the same, where such lands have been already sold, and any land which may hereafter be granted or appropriated for such purpose, for the support and maintenance of such school, and may make the same a branch of the University for instruction in agriculture and the natural sciences connected therewith, and place the same under the supervision of the Regents of the University.

Sec. 12. The Legislature shall also provide for the establishment of at least one library in each township; and all fines assessed and collected in the several counties and townships for any breach of the penal laws, shall be exclusively applied to the support of such libraries.

APPENDIX III.C.

MICHIGAN CONSTITUTION (1908)

ARTICLE XI--EDUCATION

Sec. 1. Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

Sec. 2. A superintendent of public instruction shall be elected at the regular election to be held on the first Monday in April, nineteen hundred nine, and every second year thereafter. He shall hold office for a period of two years from the first day of July following his election and until his successor is elected and qualified. He shall have general supervision of public instruction in the state. He shall be a member and secretary of the state board of education. He shall be ex-officio a member of all other boards having control of public instruction in any state institution, with the right to speak but not to vote. His duties and compensation shall be prescribed by law.

Sec. 3. There shall be a board of regents of the university, consisting of eight members, who shall hold the office for eight years. There shall be elected at each regular biennial spring election two members of such board. When a vacancy shall occur in the office of regent it shall be filled by appointment of the governor.

Sec. 4. The regents of the university and their successors in office shall continue to constitute the body corporate known as "The Regents of the University of Michigan."

Sec. 5. The regents of the university shall, as often as necessary, elect a president of the university. The president of the university and the superintendent of public instruction shall be ex-officio members of the board of regents, with the privilege of speaking but not of voting. The president shall preside at the meetings of the board and be the principal executive officer of the university. The board of regents shall have the general supervision of the university and the direction and control of all expenditures from the university funds.

Sec. 6. The state board of education shall consist of four members. On the first Monday in April, nineteen hundred nine, and at each succeeding biennial spring election, there shall be elected one member of such board who shall hold his office for six years from the first day of July following his election. The state board of education shall have general supervision of the state normal college and the state normal schools, and the duties of said board shall be prescribed by law.

Sec. 7. There shall be elected on the first Monday in April, nineteen hundred nine, a state board of agriculture to consist of six members, two of whom shall hold the office for two years, two for four years and two for six years. At every regular biennial spring election thereafter, there shall be elected two members whose term of office shall be six years. The members thus elected and their successors in office shall be a body corporate to be known as "The State Board of Agriculture."

Sec. 8. The state board of agriculture shall, as often as necessary, elect a president of the agriculture college, who shall be ex-officio a member of the board with the privilege of speaking but not of voting. He shall preside at the meetings of the board and be the principal executive officer of the college. The board shall have the general supervision of the college, and the direction and control of all agricultural college funds; and shall perform such other duties as may be prescribed by law.

Sec. 9. The legislature shall continue a system of primary schools, whereby every school district in the state shall provide for the education of its pupils without charge for tuition; and all instruction in such schools shall be conducted in the English language. If any school district shall neglect to maintain a school within its borders as prescribed by law for at least five months in each year, or to provide for the education of its pupils in another district or districts for an equal period, it shall be deprived for the ensuing year of its proportion of the primary school interest fund.

Sec. 10. The legislature shall maintain the university, the college of mines, the state agricultural college, the state normal college and such state normal schools and other educational institutions as may be established by law.

Sec. 11. The proceeds from the sales of all lands that have been or hereafter may be granted by the United States to the state for educational purposes and the proceeds of all lands or other property given by individuals or appropriated by the state for like purposes shall be and remain a perpetual fund, the interest and income of which, together with the rents of all such lands as may remain unsold, shall be inviolably appropriated and annually applied to the specific objects of the original gift, grant or appropriation.

Sec. 12. All lands, the titles to which shall fail from a defect of heirs, shall escheat to the state, and the interest on the clear proceeds from the sales thereof shall be appropriated exclusively to the support of the primary schools.

Sec. 13. The legislature shall appropriate all salt spring lands now unappropriated, or the money arising from the sale of the same, where such lands have already been sold, and any funds or lands which may hereafter be granted or appropriated for such purpose, for the support and maintenance of the agriculture college.

Sec. 14. The legislature shall provide by law for the establishment of at least one library in each township and city; and all fines assessed and collected in the several counties, cities and townships for any breach of the penal laws shall be exclusively applied to the support of such libraries.

Sec. 15. Institutions for the benefit of those inhabitants who are deaf, dumb, blind, feeble-minded or insane shall always be fostered and supported.

APPENDIX III.D.

MICHIGAN CONSTITUTION (1963)

ARTICLE 8--EDUCATION

Sec. 1. Encouragement of education. Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

Sec. 2. Free public elementary and secondary schools; discrimination. The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law. Every school district shall provide for the education of its pupils without discrimination as to religion, creed, race, color or national origin.

Sec. 3. State board of education; duties. Leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to institutions of higher education granting baccalaureate degrees, is vested in a state board of education. It shall serve as the general planning and coordinating body for all public education, including higher education, and shall advise the legislature as to the financial requirements in connection therewith.

Superintendent of public instruction; appointment, powers, duties. The state board of education shall appoint a superintendent of public instruction whose term of office shall be determined by the board. He shall be the chairman of the board without the right to vote, and shall be responsible for the execution of its policies. He shall be the principal executive officer of a state department of education which shall have powers and duties provided by law.

State board of education: members, nomination, election, term. The state board of education shall consist of eight members who shall be nominated by party conventions and elected at large for terms of eight years as prescribed by law. The governor shall fill any vacancy by appointment for the unexpired term. The governor shall be ex-officio a member of the state board of education without the right to vote.

Boards of institutions of higher education, limitation. The power of the boards of institutions of higher education provided in this constitution to supervise their respective institutions and control and direct the expenditure of the institutions' funds shall not be limited by this section.

Sec. 4. Higher education institutions; appropriations, accounting, public sessions of boards. The legislature shall appropriate moneys to main-

tain the University of Michigan, Michigan State University, Wayne State University, Eastern Michigan University, Michigan College of Science and Technology, Central Michigan University, Northern Michigan University, Western Michigan University, Ferris Institute, Grand Valley State College, by whatever names such institutions may hereafter be known, and other institutions of higher education established by law. The legislature shall be given an annual accounting of all income and expenditures by each of these educational institutions. Formal sessions of governing boards of such institutions shall be open to the public.

Sec. 5. University of Michigan, Michigan State University, Wayne State University; controlling boards. The regents of the University of Michigan and their successors in office shall constitute a body corporate known as the Regents of the University of Michigan; the trustees of Michigan State University and their successors in office shall constitute a body corporate known as the Board of Trustees of Michigan State University; the governors of Wayne State University and their successors in office shall constitute a body corporate known as the Board of Governors of Wayne State University. Each board shall have general supervision of its institution and the control and direction of all expenditures from the institution's funds. Each board shall, as often as necessary, elect a president of the institution under its supervision. He shall be the principal executive officer of the institution, be ex-officio a member of the board without the right to vote and preside at meetings of the board. The board of each institution shall consist of eight members who shall hold office for terms of eight years and who shall be elected as provided by law. The governor shall fill board vacancies by appointment. Each appointee shall hold office until a successor has been nominated and elected as provided by law.

Sec. 6. Other institutions of higher education, controlling boards. Other institutions of higher education established by law having authority to grant baccalaureate degrees shall each be governed by a board of control which shall be a body corporate. The board shall have general supervision of the institution and the control and direction of all expenditures from the institution's funds. It shall, as often as necessary, elect a president of the institution under its supervision. He shall be the principal executive officer of the institution and be ex-officio a member of the board without the right to vote. The board may elect one of its members or may designate the president, to preside at board meetings. Each board of control shall consist of eight members who shall hold office for terms of eight years, not more than two of which shall expire in the same year, and who shall be appointed by the governor by and with the advice and consent of the senate. Vacancies shall be filled in like manner.

Sec. 7. Community and junior colleges; state board, members, terms, vacancies. The legislature shall provide by law for the establishment and financial support of public community and junior colleges which shall be supervised and controlled by locally elected boards. The legislature shall provide by law for a state board of public community and junior colleges which shall advise the state board of education concerning general supervision and planning for such colleges and requests for annual appropriations for their support. The board shall consist of eight members who shall hold office for terms of eight years, not more than two of which shall expire in the same year, and who shall be appointed by the state board of education.

Vacancies shall be filled in like manner. The superintendent of public instruction shall be ex-officio a member of this board without the right to vote.

Sec. 8. Services for handicapped persons. Institutions, programs and services for the care, treatment, education or rehabilitation of those inhabitants who are physically, mentally or otherwise seriously handicapped shall always be fostered and supported.

Sec. 9. Public libraries, fines. The legislature shall provide by law for the establishment and support of public libraries which shall be available to all residents of the state under regulations adopted by the governing bodies thereof. All fines assessed and collected in the several counties, townships and cities for any breach of the penal laws shall be exclusively applied to the support of such public libraries, and county law libraries as provided by law.

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IV - MISSOURI STATE EDUCATION AGENCY--
TRANSITION 1947

<u>Contents</u>	<u>Pages</u>
Brief History to 1947	129
Constitution	131
State Board of Education	135
State Superintendent of Public Schools	144
The Change--The Period from 1945 to 1947.	146
A Review and Appraisal of the Governing Structure by the Missouri Study Participants	150
<hr/>	
Appendix IV - Missouri	153
IV.A. - Missouri Constitution (1820) Article VI--of Education	154
IV.B. - Missouri Constitution (1865) Article IX--Education	155
IV.C. - Missouri Constitution (1875) Article XI--Education	157
IV.D. - Missouri Constitution (1945) Article IX--Education	159
<hr/>	
Table 4 - Comparison of the Education Articles of the 1820, 1865, and 1875 Missouri Constitutions with the 1945 Missouri Constitution	132
Figure 4 - Key Events in Missouri State Education Agency Development	138
<hr/>	
Bibliography	162

MISSOURI

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CHAPTER IV

MISSOURI STATE EDUCATION AGENCY--

TRANSITION 1947

Brief History to 1947

The early history and development of the Missouri State Department of Education has been described in a chapter of a book dealing with the fifty state departments of education: the chapter was prepared by Raymond A. Roberts, a member of the Missouri State Department of Education staff.¹ Prior to statehood in 1820, the Territory of Missouri had no commitment to a territorial-wide system of education.²

The first Missouri Constitution, adopted by the Convention in 1820, stated that one school, or more, should be established in each township "as soon as practicable and necessary, where the poor shall be taught gratis."³ Interestingly, this Constitution did not mandate a "system" of education, which probably is understandable when one considers the period of history in which this Constitution was adopted. In 1839, a Common School system was established by an act of the General Assembly.⁴ This act was, in effect, a school code: thus, Missouri education at the state level was developed on

¹Jim B. Pearson and Edgar Fuller, eds., Education in the States: Historical Development and Outlook (Washington, D.C.: National Education Association of the United States, 1969), pp. 677-702. Chapter 25 concerns Missouri.

²Ibid., p. 679.

³Missouri Const. (1820) art. VI, sec. 1. A copy of Article VI can be found in Appendix IV.

⁴Missouri, Laws (1838-39), pp. 112-48.

a statutory base until 1865.

The 1865 Constitution made significant advances in the state's concern with, and dedication to, education.⁵ Its principal features were incorporated into the 1875 Constitution and, since the 1875 Constitution was in force during the main period of Missouri's early educational development, the 1875 Constitution is the document of primary interest. It should be mentioned at this point that the principles established in the school law codifications of 1839 and 1853 were probably significant to the development of the 1865 Constitutional provisions.⁶

The 1875 Constitution made a state commitment to education in terms of both a charge to the General Assembly to establish free public schools and a commitment of a minimum of 25% of annual state revenues, exclusive of dedicated funds and interest therefrom, to the support of the public schools.⁷ This Constitution vested the supervision of instruction in the public schools in a Board of Education composed of four state officers serving as ex officio members.⁸ These officers were: The Superintendent of Public Schools, who was the Board president, the Governor, the Secretary of State, and the Attorney General. The office of Superintendent of Public Schools was continued as a Constitutional office and was provided for on an elected, four-year term basis.⁹

⁵Missouri Const. (1865) art. IX. A copy of Article IX can be found in Appendix IV.

⁶The 1839 "Codification" can be found in: Missouri, Laws (1838-39), pp. 112-48. The 1853 "Codification" can be found in: Missouri, Laws (1852-53), pp. 147-68.

⁷Missouri Const. (1875) art. XI, sec. 1,7. A copy of Article XI can be found in Appendix IV.

⁸Ibid., Sec. 4.

⁹Missouri Const. (1875) art. V, sec. 1,2. He was elected at the "off-year" general election, separate from all other state officers.

The same basic commitment to education was continued in the 1945 Constitution, however, the state extended free instruction to people younger than twenty-one years in age ranges defined by the General Assembly as opposed to the previous limitation of six to twenty years.¹⁰ Apparently this provision was given considerable forethought by the framers of the fourth Constitution because it gives the General Assembly a great deal of flexibility in providing free education for both preschool and community college level instruction to its charges. The supervision of instruction in the public schools was vested in an eight-member, governor-appointed, lay State Board of Education. This Board was given the power to appoint the Commissioner of Education to serve at its pleasure.¹¹

Constitution

A comparison of Missouri's three earlier Constitutions with the current Constitution demonstrates some rather basic changes in the state's concern for education and the Constitutional structure established to administer it. This comparison can be found in Table 4.

The primary emphasis of the 1820 Constitution appeared to be directed to the preservation and improvement of the educationally dedicated lands, and the monies derived from the sale of these lands, for the eventual use of public education and the University.¹² No mandate was given to establish a system of education for the state. The establishment of schools, one or more per township, was called for but neither a timetable nor a directive was

¹⁰Missouri Const. (1945) art. IX, sec. 1,3. A copy of Article IX can be found in Appendix IV.

¹¹Ibid., sec. 2.

¹²Missouri Const. (1820) art. VI, sec. 1.

TABLE 4

COMPARISON OF THE EDUCATION ARTICLES OF THE 1820, 1855, AND 1875 MISSOURI CONSTITUTIONS WITH THE 1945 MISSOURI CONSTITUTION

Sect. No. of Art. IX 1945 Const.	Sect. No. of Art. XI 1875 Const.	Sect. No. of Art. IX 1865 Const.	Sect. No. of Art. VI 1820 Const.
1.a. Charges General Assembly with establishment and maintenance of free public schools for persons under 21 years of age.	1. Similar, except ages 6 to 20.	1. Similar, except ages 5 to 21.	1. Discretionary charge to Genl Asbly to est. schools in ea. tnshp.
Authorized separate schools except in cases provided by law.	3. Separate schools for children of African descent.	2. Separate schools for children of African descent.	No counterpart.
b. Establishment of specific schools by General Assembly authorized. Adult education may be provided for by funds other than school revenues.	No counterpart.	No counterpart.	No counterpart.
2.a. Established state board of education with eight lay members, governor appointed and senate confirmed. No more than four from same political party. Eight year terms except for first appointees in order to stagger terms.	4. Bd. of Educ. composed of Supt of Publ Schs (Pres.), Gov, Secy of State, & Atty Genl. Ex officio board.	3. Bd. of Educ. composed of Supt of Publ Schs, Atty Genl, & Secy of State. Ex officio board.	No counterpart.
b. Commissioner of Education to be appointed by board to be its chief administrative officer. Must be citizen and resident of state. Removable at board's discretion. Board appoints the professional staff upon the Commissioner's recommendation. Duties and compensation of Commissioner, and staff, to be set by board.	4. Powers and duties prescribed by law. Art. V, Sec. 1 & 2 established office of Supt of Publ Schs. Began with 1878 genl election & every 4 yrs thereafter.	3. Four-year elective term prescribed in Constitution. Duties and compensation prescribed by law.	No counterpart.
3.a. Provides for annual distribution of appropriations and income in accordance with distribution rules established by law.	2. Required at least 3 mo./yr. of school to share in state funds.	5. & 7. Required annual fund dist. and a min. of 3 mo./yr. of school to share in state funds.	No counterpart.
b. Guarantees at least eight months school in every district by permitting the General Assembly to make up the deficiencies; sets a 25% floor on State Revenue to be devoted to support of free public schools (25% exclusive of interest and principal on dedicated funds).	7. Guarantees a four-month minimum school year.	7. Guarantees a three-month minimum school year.	No counterpart.
c. Prohibits difference in wages paid to teachers having same training and experience on racial grounds.	No counterpart.	No counterpart.	No counterpart.

TABLE 4--Continued

Sect. No. of Art. IX 1945 Const.	Sect. No. of Art. XI 1875 Const.	Sect. No. of Art. IX 1865 Const.	Sect. No. of Art. VI 1820 Const.
4. "Public school fund" and "Seminary Fund"-- estab- lished state policy concerning these funds and interest resulting therefrom.	9. Concerns "Public School Fund." See also Art. X, Sec. 26--refers to both.	No counterpart.	No counterpart.
5. Establishes "Public School Fund" and defines type of assets which may become part of fund.	6. Similar, except State Univ. is in- cluded in distri- bution of funds. No counterpart.	5. Similar except State Univ. is included in distri- bution of funds. No counterpart.	1. Forerunner of "Public School Fund"? 2. (Establishes "Seminary Fund" and defines assets comprising it?) No counterpart.
6. Establishes "Seminary Fund" for support of State University and defines the kinds of assets which may become part of fund.	8. Did not specify investment type. No provision for election by county of annual distri- bution of school fund. 10. Rules on investing county school funds. 11. Identical.	6. Only brief mention made of county school funds. No counterpart.	No counterpart.
7. Liquidated individual county and township school funds and provided for reinvestment of these funds. Provided for annual distribution of penalties, fines, etc.	5. Identical (2nd Sentence). 5. Discretionary charge (1st sentence).	No counterpart.	No counterpart.
8. Prohibited support of sectarian schools with public monies or properties.	No counterpart.	No counterpart.	No counterpart.
9.a. Established board of curators (nine governor-appointed, senate-confirmed members) for State University. b. Charges General Assembly with maintenance of State University.	No counterpart.	No counterpart.	2. Established a Univ.
10. State policy to promote local libraries. General Assembly to determine amount of aid.	No counterpart.	No counterpart.	No counterpart.

given to the General Assembly to accomplish this task. This Constitution did provide that the "poor" were to be taught free in the township schools, but made no mention of financing the education of the poor.¹³

The development of education in Missouri during the period 1820 to 1865 appeared to be somewhat sporadic. A school "code" was enacted by the General Assembly in 1839 and a revised "code" was passed in 1853. These codes contained in them many features which were incorporated into the 1865 Constitution. First, the 1865 Constitution provided for a system of free public schools for Missourians between five and twenty-one years.¹⁴ Second, it established a state-level governing structure headed by a Board of Education which was charged with the responsibility of the "supervision of public instruction."¹⁵ Third, it established a State University.¹⁶ Fourth, it called for a Public School Fund and laid down the rules pertaining to the maintenance, investment, and distribution of this fund.¹⁷ Fifth, it permitted the establishment of County School Funds and specified some rules concerning the investment of these funds.¹⁸ Sixth, it permitted the General Assembly to compel children to attend school during the period between five and eighteen years of age,¹⁹ "unless educated by other means."

With the ratification of the 1875 Constitution, Missouri's commitment to public education was well established. Again, it charged the

¹³ Ibid., sec. 1.

¹⁴ Missouri Const. (1865) art. IX, sec. 1.

¹⁵ Ibid., Sec. 3.

¹⁶ Ibid., sec. 4.

¹⁷ Ibid., sec. 5-9.

¹⁸ Ibid., sec. 6.

¹⁹ Ibid., sec. 7.

General Assembly with the establishment and maintenance of free public education for those Missourians between the ages of six and twenty years.²⁰ It also provided for a state-level governing structure by continuing a Board of Education, but now composed of four state officers serving on an ex officio basis.²¹ Again, it provided for the continuance of the State University but added a nine-member, governor-appointed, senate-confirmed Board of Curators to govern the University.²² A considerable portion of the education article was devoted to the financing of education.²³ The Public School Fund and the County Public School Funds received specific mention in the Constitution and the bulk of the financial provisions were concerned with the protection, maintenance, preservation and distribution of these funds. One significant provision required that a minimum of 25% of the annual state revenues, exclusive of interest and principal on dedicated funds, be applied to the support of the public schools.²⁴ Another provision required that no public funds be dedicated to the use or support of religious or sectarian institutions "for any religious creed, church or sectarian purpose whatever."²⁵

State Board of Education

The first state-level board for education was probably the Commis-

²⁰Missouri Const. (1875) art. XI, sec. 1.

²¹Ibid., sec. 4.

²²Ibid., sec. 5.

²³Ibid., sec. 2,5-10.

²⁴Ibid., sec. 7.

²⁵Ibid., sec. 11.

sioners of the State School Fund and was created in 1839. It was composed of the Governor, the Attorney General and the Superintendent of Common Schools (as this office was known then). This possibly was the precedent for the 1865 Constitutional Board of Education. An 1853 revision of the school "code" continued the 1839 concept of the Commissioners of the State School Fund.²⁷

The 1865 Constitution provided for a Board of Education, composed of the Superintendent of Public Schools, who served as President of the Board, the Secretary of State and the Attorney General.²⁸ It was vested with the responsibility for "the supervision of public instruction" and its duties and powers were to be prescribed by law.²⁹

Since the ratification of the 1875 Constitution, the state has had essentially two basic boards constitutionally responsible for the totality of public education.³⁰ The first board, the Board of Education, was composed of four state officers serving on an ex officio basis. These officers were: the Superintendent of Public Schools, who served as President of the Board, the Governor, the Secretary of State and the Attorney General. Interestingly, these four state officers had been involved with education on an ex officio basis since 1839, although not all had served on the Board of Education at the same time until the 1875 provision. This board's responsibilities included "the supervision of instruction in

²⁶ Missouri, Laws (1838-39), p. 114.

²⁷ Missouri, Laws (1852-53), p. 149.

²⁸ Missouri Const. (1865) art. IX, sec. 3.

²⁹ Ibid.

³⁰ Missouri Const. (1875) art. XI, sec. 4,5.

the public schools," and its powers and duties were derived from statute.³¹ As mentioned earlier, the Board of Education established by the 1875 Constitution was preceded by the Board of Education created under the 1865 Constitution: the Governor was not a member of the 1865 Constitutional Board. Some of the key milestones in the development of the Missouri state governing structure for elementary and secondary education, including the portion pertaining to the State Board of Education, can be found in Figure 4.

The second board created by the 1875 Constitution was a Board of Curators for the State University.³² A nine-member, governor-appointed, senate-confirmed board was established to provide for the government of the State University.³³ This Constitutional board was continued without change in the 1945 Constitution.³⁴

Implementation of the 1875 Constitution was carried out primarily through amendments to the basic school code of 1870 by acts of the Missouri General Assembly.³⁵ The 1865 Constitution was implemented by an 1866 act of the General Assembly.³⁶ The latter act gave broad authority to the State Board of Education concerning "the general supervision over the entire educational interests of the State," and the investment and application of funds for educational purposes.³⁷

³¹Ibid., sec. 4.

³²Missouri Const. (1875) art. XI, sec. 5.

³³Ibid.

³⁴Missouri Const. (1945) art. IX, sec. 9.

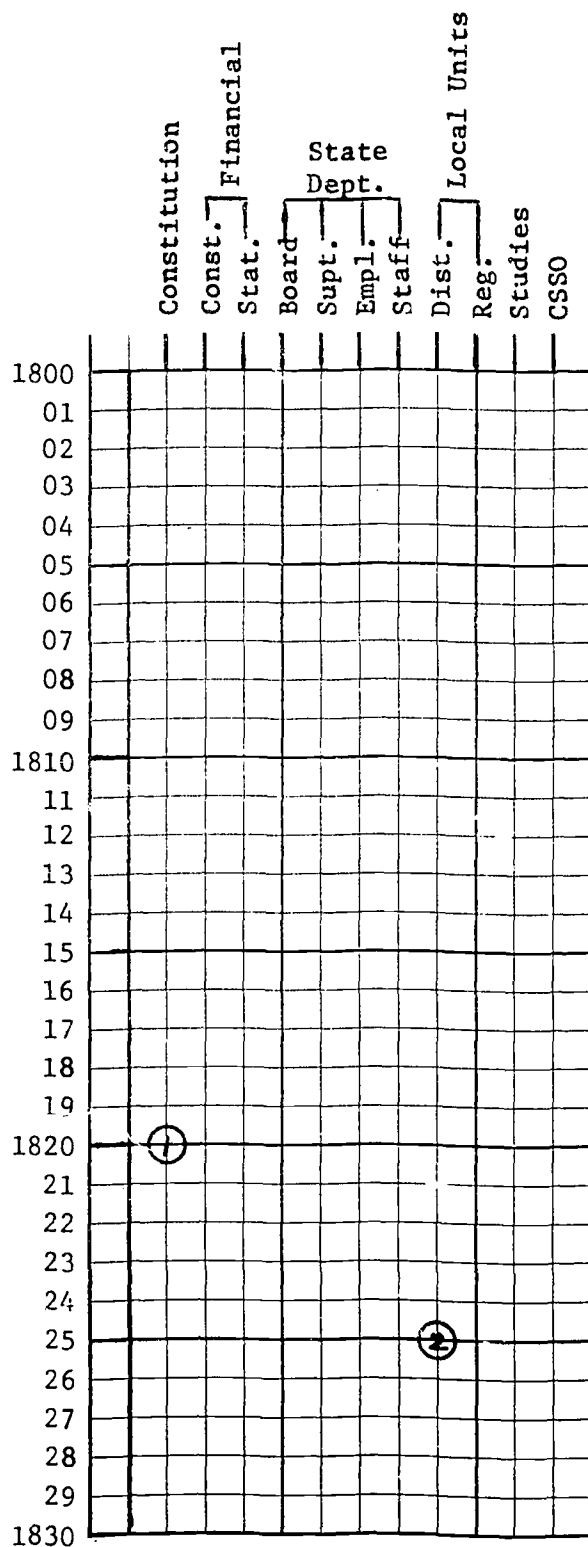
³⁵Missouri, Laws (1870), pp. 138-58. This law contained the school code, revised as of 1870.

³⁶Missouri, Laws (1865-66), pp. 170-94.

³⁷Ibid., p. 188 (sec. 83).

FIGURE 4

KEY EVENTS IN MISSOURI STATE EDUCATION AGENCY DEVELOPMENT

Events

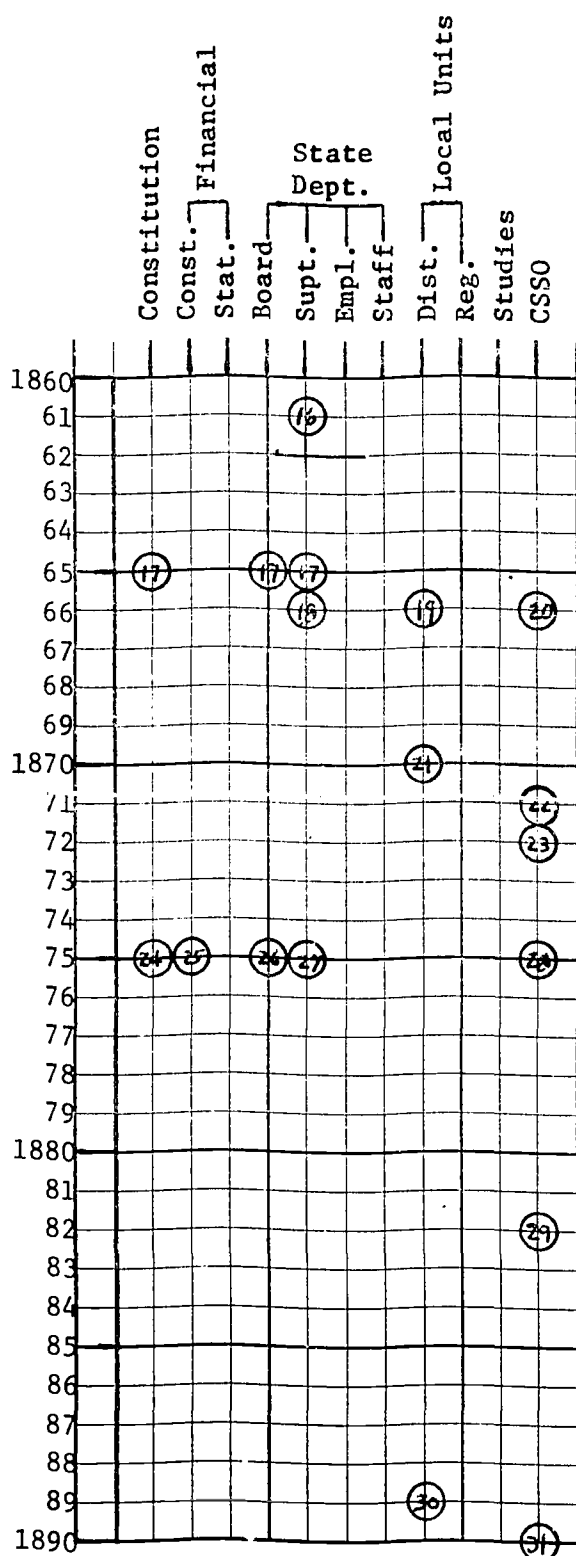
1. First Missouri Constitution.
Adopted by Convention 7/19/1820.
Ratified
Statehood granted 8/10/1821.
2. Provided for one or more school districts per township and for township trustees appointed by county courts to preserve school lands.

	Constitution	Const.	Financial	Stat.	Board	Supt.	State	Dept.	Empl.	Staff	Dist.	Local	Reg.	Units	Studies	CSO
1830																
31																
32																
33																
34																
35																
36																
37																
38																
39																
1840																
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48																
49																
1850																
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55																
56																
57																
58																
59																
1860																

Events

3. Provided for 3 trustees per district in 1835. Trustees to employ teachers, to operate schools for at least 6 months each year, and to approve subjects taught.
4. Established a permanent school fund--the Common School Fund.
5. Created State School Fund.
6. Act of the General Assembly to provide for Supt. of Common Schools. Elected by General Assembly for two-year term. Supt. to handle fiscal matters and license teachers.
7. Basic school district organization devised.
8. Peter G. Glover, 1839-41
9. Office of State Supt. abolished in 1841. Secretary of State served as ex officio State Supt.
10. State School Fund created by new school code.
11. Office of Supt. of Common Schools recreated. Governor-appointed office for year 1854; elective, two-year tenure office beginning with general election in 1854; took office in January 1855.
12. School district organization outlined in new school code (see 17 G.A. 159-68).
13. John W. Henry, 1854
14. Edwin C. Davis, 1854-56
15. William B. Starke, 1856-61

FIGURE 4--Continued

Events

16. Office of State Supt. was abolished in 1861 as a war measure. Secretary of State was made Supt. of Common Schools on an ex officio basis from 12/1861 until 1866.
17. Second Missouri Constitution. Adopted by Convention 4/8/1865. Ratified on 6/6/1865.
18. Office of State Supt. recreated in 1866. Established as an elective office; four-year term.
19. Legislature required that free schools be maintained in every inhabited part of state. Required equalization of taxation on persons and property to support schools.
20. T. A. Parker, 1866-71
21. Public School Reorganization Act (25 G.A. 138-58). Gave the State Board of Education authority to inspect schools, examine teachers, etc.
22. Ira Divoll, 1871
23. John Monteith, 1872-75
24. Third Missouri Constitution. Adopted by Convention 8/2/1875. Ratified on 10/30/1875.
25. At least 25% of State revenues to be used for school purposes.
26. Established State Board of Education--State Supt. of Public Schools, Governor, Secretary of State, Attorney General.
27. Established Constitutional State Superintendent of Public Schools. Elective office, 4-year term. First election commencing with general election of 1878.
28. Richard D. Shannon, 1875-82
29. W. E. Coleman, 1882-90
30. Revision of 1870 Public School Reorganization law.
31. Lloyd E. Wolfe, 1890-95

FIGURE 4--Continued

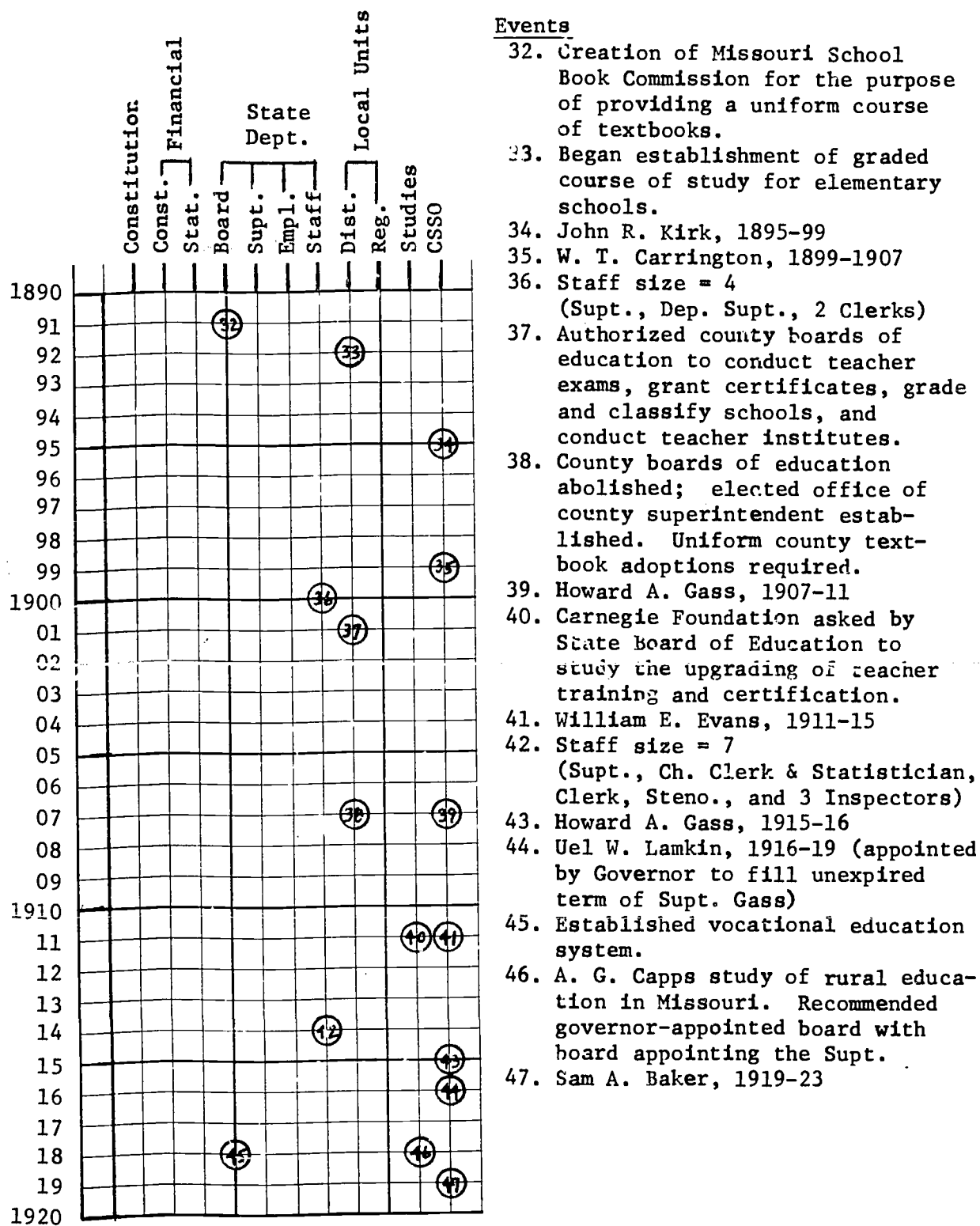
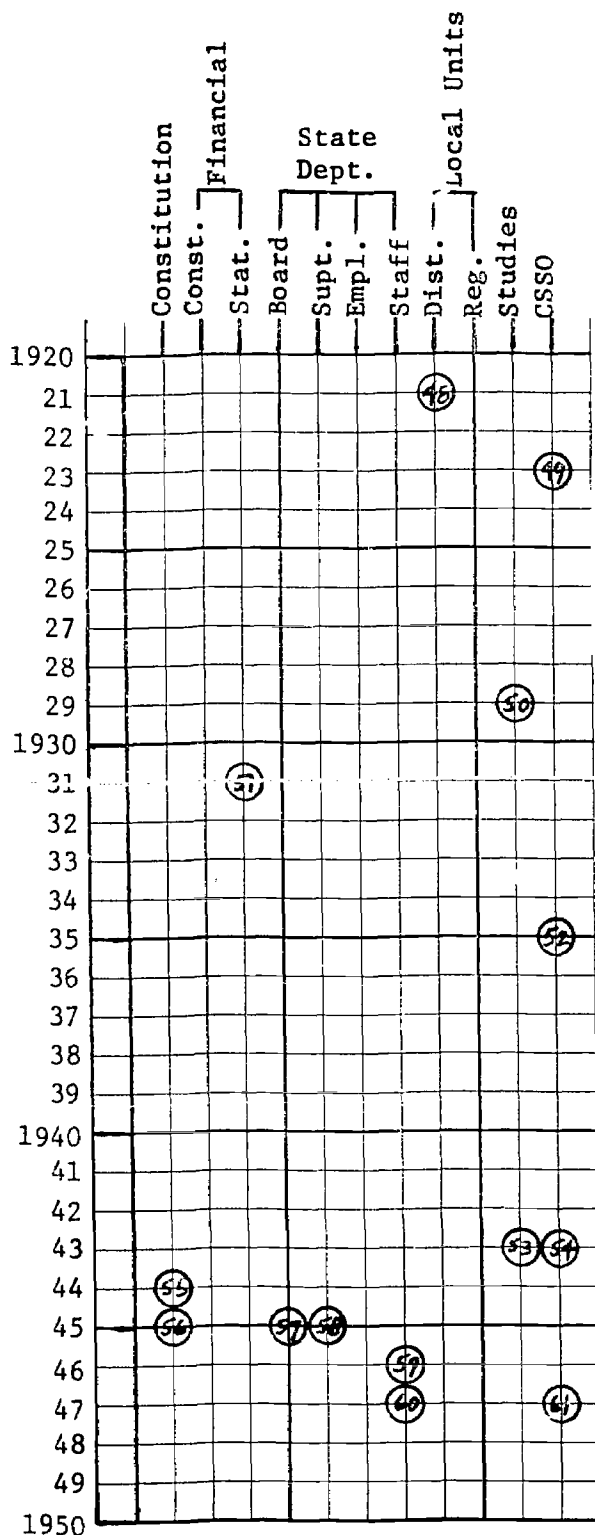
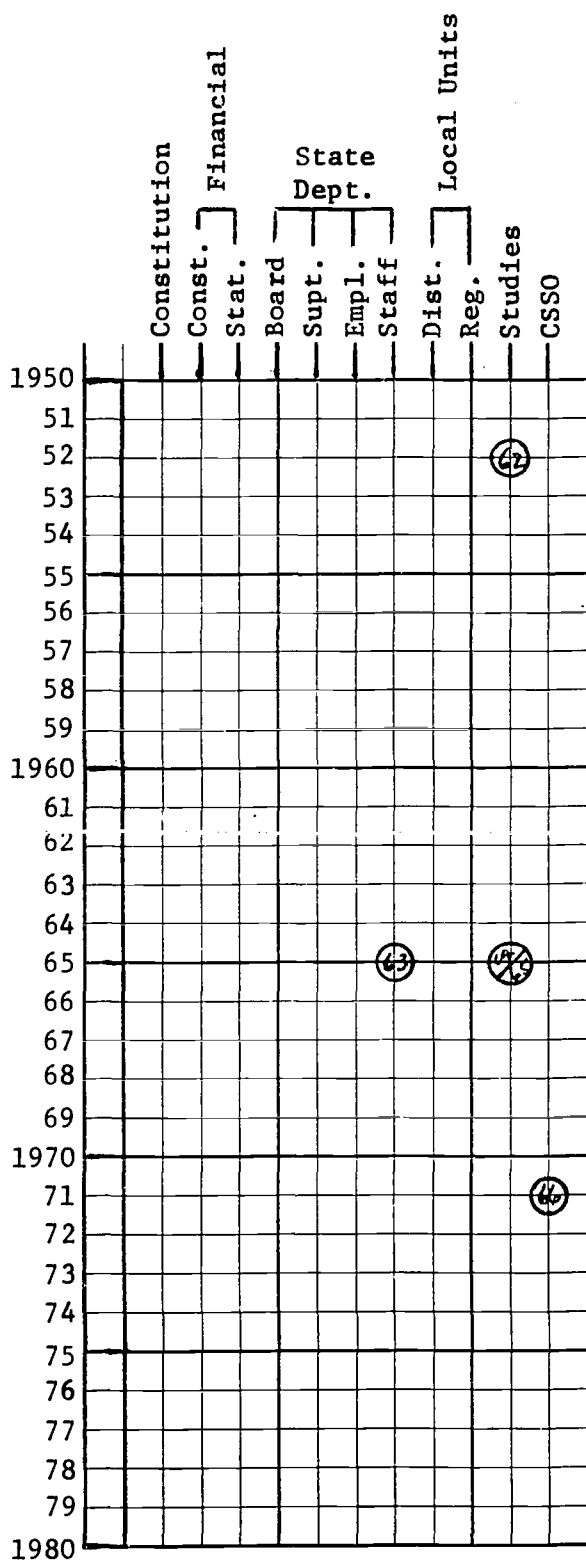


FIGURE 4--Continued

Events

48. General Assembly expanded responsibilities to public for education.
49. Charles A. Lee, 1923-35
50. Missouri School Survey Committee report. Recommended governor-appointed board with board having power to appoint State Supt. Supt. to serve at the pleasure of the board.
51. Provided an equalization method for financing public schools. Permitted enlarging districts on optional basis.
52. Lloyd King, 1935-43
53. A. G. Capps follow-up study of rural education.
54. Roy Scantlin, 1943-47
55. General Assembly issued call for Constitutional Convention.
56. Fourth Missouri Constitution. Adopted by Convention 9/28/1944. Ratified on 2/27/1945. Effective date 3/30/1945.
57. Governor-appointed, senate-confirmed State Board of Education. Eight members, staggered eight-year terms, bipartisan.
58. Commissioner of Education appointed by the State Board of Education.
59. Staff levels (6/30/1946) = 128 (74 Prof., 54 Other)
60. Staff levels (6/30/1947) = 181 (101 Prof., 80 Other)
61. Hubert Wheeler, 1947-71

FIGURE 4--Continued

Events

62. Missouri Citizens Commission Studies: Missouri Plans for Better Schools, Better Schools for Missouri Children.
63. Staff size = 504 (278 Prof., 226 Other)
64. Missouri School District Reorganization Commission (Spainhower/Domain) Study--School District Organization for Missouri.
65. Great Plains School District Organization Project: The Missouri Report--Guidelines for School District Organization.
66. Arthur L. Mallory, 1971-Pres.

When the vocational education act was passed by Congress in the early 1900's, Missouri responded rapidly to it by accepting the act. The responsibilities for the administration of the act were given to the State Board of Education by Missouri's General Assembly in 1917.³⁸ Missouri's State Board of Education during the period 1865 to 1945 could be classed as a general purpose board: it was assigned all supervisory aspects of elementary and secondary education.³⁹ Several revisions of the basic school code were made through the years, but the principal powers and duties of the Board of Education remained essentially the same.⁴⁰

State Superintendent of Public Schools

Missouri's first efforts at establishing a state-level officer for education occurred in 1839 when the General Assembly established the office of Superintendent of Common Schools.⁴¹ He was selected by a joint vote of the General Assembly with a tenure of two years prescribed for the office.⁴² The office was abolished by the General Assembly in 1841 and the duties were transferred to the Secretary of State who served on an ex officio basis as the Superintendent of Common Schools until 1854.⁴³ In 1853, the General Assembly recreated the separate office of Superintendent of Common Schools as an elective office with a two-year term

³⁸ Missouri, Laws (1917), p. 513.

³⁹ It is interesting to note that the responsibilities were not assigned to the State Superintendent of Public Schools as had been the case in several of the other states in this study.

⁴⁰ Missouri, Laws (1874), pp. 147-68; Missouri, Laws (1889), pp. 214-260.

⁴¹ Missouri, Laws (1838-39), p. 114. The act cited concerned the organization of the common school system and was practically a complete code.

⁴² Ibid.

⁴³ Missouri, Laws (1840-41), pp. 142-43. Effective date was February 15, 1841.

of office.⁴⁴ The office existed as a separate office until 1861 when the General Assembly abolished the separate office as a war measure. The duties of the office were transferred once again to the Secretary of State, who served as the ex officio Superintendent of Common Schools until 1866.

The 1865 Constitution gave constitutional status to the office for the first time and established a four-year elective term for it. This document required that the Superintendent of Public Schools should "possess the qualification of a State Senator, . . ." in order to accede to the office.⁴⁵ The duties and compensation of the Superintendent of Public Schools, according to the 1865 Constitution, were to be established by the General Assembly.⁴⁶ Translation of the governing structure provisions of the 1865 Constitution into statutory law was made by the General Assembly in 1866.⁴⁷ His duties, largely confined to fund supervision, visitations, report preparation, distribution of laws, etc., were detailed in this same act.⁴⁸ The 1866 act of the General Assembly represented the third codification of Missouri school law.⁴⁹

The basic provisions of the 1865 Constitution concerning the State Superintendent of Public Schools were preserved in the 1875 Constitution. It continued as an elective office with a four-year term beginning with the

⁴⁴Missouri, Laws (1852-53), p. 148. A provision was made in the law to permit the Governor to appoint a Superintendent of Common Schools for the year 1854. See also: Missouri, Laws (1863-64), p. 103.

⁴⁵Missouri Const. (1865) art. IX, sec. 3.

⁴⁶Ibid.

⁴⁷Missouri, Laws (1865-66), p. 181, 188.

⁴⁸Ibid., pp. 181-82.

⁴⁹Previous codifications had occurred in 1839 and 1853.

election of 1878.⁵⁰ This resulted in a situation in which the State Superintendent of Public Schools ran for office in the off-year general election. Thus, this office was the only major state office up for election during the off-year general election. The conditions surrounding the selection of the State Superintendent of Public Schools remained essentially the same until 1945.

The Change--The Period from 1945 to 1947

Missouri's successful efforts at revising the state-level governing structure for elementary and secondary education stemmed from the February 27, 1945, ratification of the State's fourth Constitution. The framers of this Constitution, in establishing the schedule for implementation of the Constitution, set an effective date of thirty days after the approval of the Constitution by the voters. It became effective March 30, 1945.⁵¹

Missouri, like Michigan, adopted a complete Constitution. This requires the delegates to the Constitutional Convention to weigh and consider all aspects of state government: thus, education becomes just one of many facets which must receive deliberation. The Missouri study participants indicated that a number of educational professionals had met with delegates to the Convention both before and during the convention to express their opinions on the education article. They pointed out that there was considerable agreement by these professionals on the type of governing structure desired at the state level and on the need for a professional department of education.

The principal features of the 1945 Constitution, education article,

⁵⁰Missouri Const. (1875) art. V, sec. 1-2.

⁵¹Constitution, State of Missouri--1945 (Revised, 1969), (Jefferson City, Mo.: Secretary of State, 1969), p. 1 (not numbered).

were:

1. It provided for a State Board of Education which was charged with "The supervision of instruction in the public schools . . ."52

2. It provided for an eight-member State Board of Education. Members were required to be lay persons. Membership on the Board was achieved through appointment by the Governor, followed by a confirmation vote of the Senate. Eight year terms were prescribed for all members except those in the first set of appointments in which the staggering of terms was established. Not more than four members could come from any one political party.⁵³

3. It provided that the General Assembly "shall establish and maintain free public schools for the gratuitous instruction of all persons in this state within ages not in excess of twenty-one years as prescribed by law."⁵⁴

4. It provided for the selection and appointment of a Commissioner of Education. The Commissioner, who is the board's chief administrative officer, is required to be a citizen and resident of the state. He serves at the Board's pleasure and the board is required to fix his compensation and prescribe his duties. The board, upon the recommendation of the Commissioner, shall appoint the professional staff and fix their compensation.⁵⁵

5. It provided for a State University and vested the government of the University in a nine-member, governor-appointed, and senate-confirmed Board of Curators.⁵⁶

6. It provided for a minimum of 25% of state revenues, exclusive of dedicated funds and interest therefrom, to be dedicated annually to the support of free public schools. It also provided for a minimum of eight months of school at the discretion of the General Assembly.⁵⁷

7. It established a state commitment "to promote the establishment and development of free public libraries and to accept the obligation of their support by the state and its subdivisions and municipalities in such manner as may be provided by law."⁵⁸

Implementation details were partially included in the 1945 Constitu-

⁵²Missouri Const. (1945) art. IX, sec. 2.

⁵³Ibid.

⁵⁴Ibid., sec. 1.

⁵⁵Ibid., sec. 2.

⁵⁶Ibid., sec. 9.

⁵⁷Ibid., sec. 3.

⁵⁸Ibid., sec. 10.

tion: several affected education and were heeded in legislative implementation.⁵⁹ The implementation of this Constitution concerning the state-level governing structure for elementary and secondary education was basically contained in a 1945 act of the Missouri General Assembly.⁶⁰ Some of the responsibilities of the State Board of Education, as specified by the law, are as follows:

1. The carrying out of the educational policies of the state as provided by the Constitution and the Statutes.
2. The investment of all moneys received by the state to be applied to the capital of any fund for educational purposes.
3. The apportionment of state monies to the various school districts.
4. The assembling of information which will reflect continuously the condition and management of the public schools.
5. The dissemination of information.
6. The securing of reports from county officials and boards of education as will reflect the condition of schools and their management.
7. The publishing of laws relating to schools.
8. The providing of blanks for school district and county use in reporting statistical information concerning the schools.
9. The certification of teachers.
10. The classification of the public schools.
11. The making of a comprehensive annual report.
12. The general supervision of instruction.
13. The development of curriculum guides.
14. The administration and supervision of those phases of the National Defense Education Act which pertain to the strengthening of geography, industrial arts, civics, reading, mathematics, English, science, economics, modern foreign languages and history instruction, the testing and guidance of students, the improvement of statistical services, and the expansion of technical education programs.
15. The general administration of vocational education, vocational rehabilitation, disability freeze determinations, and veterans programs.

⁵⁹Constitution, State of Missouri--1945 (Revised, 1969), p. 122-23. See especially Sections 2 and 3.

⁶⁰Missouri, Laws (1945), pp. 1639-43 (Schools: Relating to the State Board of Education); pp. 1643-45 (Schools: Establishing a Department of Education and Defining Its Functions).

16. The provision of consultative service relative to district reorganization, pupil transportation and school building construction and maintenance.

17. The administration of the national school lunch and surplus commodity programs for the state.

18. The handling of donable government surplus property for non-profit schools, hospitals and civil defense units.

19. The establishment and operation of state schools for retarded children.

20. The supervision of the extended employment sheltered workshop program.

21. The operation of the State School for the Blind and the State School for the Deaf.

22. The administration of the junior college statutes.

23. The administration of the adult basic education program.

24. The administration of civil defense educational programs.

25. The administration of the Elementary and Secondary Education Act.⁶¹

The ex officio Board of the 1875 Constitution was permitted to continue until July 1, 1946: likewise, the term of State Superintendent of Public Schools, Roy Scantlin, created under 1875 Constitutional provisions, was protected until its normal expiration on January 1, 1947.⁶² Study participants indicated that the Board began assuming its Constitutional powers in July 1946. The participants agreed that the major concern of the Board during the first several months of its existence was in the selection of the new Commissioner of Education. Hubert Wheeler was the Board's first appointed Commissioner of Education and assumed office in January 1947. He remained in that office until January 1, 1971. It is interesting to note that the Missouri State Board of Education adopted, early in its life, a set of rules governing its meetings and activities.⁶³

⁶¹The School Administrators Handbook (Jefferson City, Missouri: Missouri State Board of Education, 1969), pp. 17-18. See also Missouri School Laws (Jefferson City, Mo.: Missouri State Board of Education, 1970--Publication No. 10), pp. 10-20. Title XI (Education and Libraries), Chapter 161 (State Department of Education) is the appropriate part of the Mo. code.

⁶²Ibid.

⁶³Meeting of the State Board of Education--Nov. 15, 1946, Conference Room (Jefferson City, Mo.: Missouri State Board of Education, 1946).

A Review and Appraisal of the Governing Structure
by the Missouri Study Participants

The study participants were asked a number of questions concerning the structure established by the 1945 Constitution and the General Assembly's implementation resulting therefrom. The principal concerns are summarized below.

First, they agreed that the education article of the 1945 Constitution was most satisfactory. It covered the essential aspects of the governing structure and provided the General Assembly considerable latitude in making exact mission assignments and in prescribing specific duties to the State Board of Education and the Commissioner of Education. These participants suggested that the State Board of Education has not yet used the full extent of authority given to it by the Constitution.

Second, there was full agreement that the transition was very smooth. These participants perceived that there were few, if any, internal problems caused by the change in governing structures. The primary concern of the State Board of Education during the period July 1, 1946, to January 1, 1947, was with the selection of a Commissioner of Education. This, coupled with the fine cooperation of the last elected State Superintendent of Public Schools, Roy M. Scantlin, permitted the State Department of Education to adjust to the new conditions with minimal stress. Further, it was observed that the number of personnel changes occurring after Mr. Wheeler took office was very minimal.

Third, the participants observed that the profession and lay public of the state had been discussing the educational governing structure problem for years, going back into the 1930's. Thus, when the Constitutional Convention came along in 1944, many organizations and lay leaders were advocating the kinds of reforms which eventually resulted in the

education article of the Constitution.

Fourth, the participants voiced the opinion that Missouri Governors, beginning with the first appointor, Governor Donnelly, in 1946, had made excellent appointments to the Missouri State Board of Education. These participants indicated that they felt that the Governors were concerned primarily with the competence and ability of the appointees. These participants also suggested that the requirement for Senate confirmation may have had some effect upon the high caliber selections, although the size of the effect may have been minimal. The participants also pointed out that a number of State Board of Education members down through the years had had local district board experience.

The study participants were questioned on some other aspects of the education article of the Constitution. With regard to:

Constitutional State Board of Education and Commissioner of Education.-All participants agreed that it was highly desirable to give the basic governing structure constitutional status. This provides some stability to the structure and prevents a legislative change on the basis of retribution rather than careful analysis and consideration by the electorate at large.

Number of Board Members.-All agreed that eight was a most satisfactory number. One suggested that nine would be just as satisfactory. One participant suggested that, if an issue is likely to divide the board down the middle, it is best that more time and thought be given to it.

Type of Board.-All felt that lay composition of the Board was essential. The method of selection permits the Board to have members on it who are knowledgeable of school problems.

Representation, Geographical or Population.-These participants agreed that there should be some sort of geographical or population representation. No strong opinions were voiced concerning the type of district that should be specified.

Political Balance on the Board.-These participants felt that this was an essential requirement. In their opinion, education is not a partisan issue; hence, a politically balanced board insures that all viewpoints are considered. Another practice established by the Missouri State Board of Education which was perceived of as being important to the non-political image of the board was that of rotating the Presidency of the Board each year by party. All participants

observed that there was, over the years, minimum partisan involvement by the state's governors in the State Board of Education's affairs.

Term Length of Members.--The participants voiced the opinion that the length of term was about right. It permitted Board members enough time to become familiar with their responsibilities and to make a meaningful contribution to the Board. The participants also observed that practically all members had completed their full terms, or, if a member's office was vacant, it was because of the death of the incumbent.

Confirmation of Board Members.--All agreed that the confirmation of the Board by the Senate was essential. It gives the Senate an opportunity to review the Governor's selection and to make sure that the appointee meets the qualification for the office.

Relations of the State Board of Education Members with the Governor and the Legislature.--These participants expressed the opinion that there may be some value to informal meetings among these three agencies of state government to exchange policy viewpoints. However, these participants pointed out that, in order to preserve the non-partisan flavor of the Board, these contacts should be relatively low key. All agreed that the Governor and General Assembly should be kept aware of any significant problems being faced by the Board possibly through the Commissioner of Education.

Several other opinions were expressed by these participants. One participant suggested that the most critical decision of the new State Board of Education is the selection of its chief administrator. This same participant suggested that the State Board of Education must then turn its attention to policy matters and permit its chief administrator the freedom to execute those policies.

Discussion was then concentrated on the Civil Service system and its applicability to the State Department of Education. Missouri's State Department of Education is not a part of the state's civil service system. Rather, Constitutional provisions enabled the State Board of Education to appoint, and set the compensation of, the staff upon the recommendation of the Commissioner of Education. These participants expressed the opinion that this approach in handling personnel appointments, etc., had much to recommend it.

APPENDIX IV

MISSOURI

APPENDIX NUMBER	TITLE	PAGES	
		FROM	TO
IV.A.	Missouri Constitution (1820) Article VI--of Education	154	154
IV.B.	Missouri Constitution (1865) Article IX --Education	155	156
IV.C.	Missouri Constitution (1875) Article XI--Education	157	158
IV.D.	Missouri Constitution (1945) Article IX--Education	159	161

APPENDIX IV.A.

MISSOURI CONSTITUTION (1820)

ARTICLE VI--OF EDUCATION

Sec. 1. Schools and the means of education shall forever be encouraged in this state; and the general assembly shall take measures to preserve from waste or damage such lands as have been, or hereafter may be granted by the United States for the use of schools within each township in this state, and shall apply the funds which may arise from such lands in strict conformity to the object of the grant: and one school, or more, shall be established in each township as soon as practicable and necessary, where the poor shall be taught gratis.

Sec. 2. The general assembly shall take measures for the improvement of such lands as have been, or hereafter may be granted by the United States to this state for the support of a seminary of learning; and the funds accruing from such lands by rent or lease, or in any other manner, or which may be obtained from any other source for the purposes aforesaid, shall be and remain a permanent fund to support a university for the promotion of literature and of the arts and sciences; and it shall be the duty of the general assembly, as soon as may be, to provide effectual means for the improvement of such lands, and for the improvement and permanent security of the funds and endowments of such institution.

APPENDIX IV.B.

MISSOURI CONSTITUTION (1865)

ARTICLE IX--EDUCATION

Sec. 1. A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the General Assembly shall establish and maintain free public schools for the gratuitous instruction of all persons in this State between the ages of five and twenty-one years.

Sec. 2. Separate schools may be established for children of African descent. All funds provided for the support of public schools shall be appropriated in proportion to the number of children, without regard to color.

Sec. 3. The supervision of public instruction shall be vested in a board of education, whose powers and duties shall be prescribed by law. A superintendent of public schools, who shall be the president of the board, shall be elected by the qualified voters of the State. He shall possess the qualifications of a State senator, and hold his office for the term of four years, and shall perform such duties, and receive such compensation, as may be prescribed by law. The secretary of State and attorney general shall be ex officio members, and with the superintendent, compose said board of education.

Sec. 4. The General Assembly shall also establish and maintain a State university, with departments for instruction in teaching, in agriculture, and in natural science, as soon as the public school fund will permit.

Sec. 5. The proceeds of all lands that have been or hereafter may be granted by the United States to this State, and not otherwise appropriated by this State or the United States; also, all moneys, stocks, bonds, lands and other property now belonging to any fund for purposes of education; also, the net proceeds of all sales of lands, and other property and effects that may accrue to the State by escheat, or from sales of estrays, or from unclaimed dividends, or distributive shares of the estates of deceased persons, or from fines, penalties and forfeitures; also, any proceeds of the sales of the public lands which may have been or hereafter may be paid over to this State (if Congress will consent to such appropriation;) also, all other grants, gifts or devises that have been or hereafter may be made to this State, and not otherwise appropriated by the terms of the grant, gift or devise, shall be securely invested and sacredly preserved as a public school fund, the annual income of which fund, together with so much of the ordinary revenue of the State as may be necessary, shall be faithfully

appropriated for establishing and maintaining the free schools and the university in this article provided for, and for no other uses or purposes whatsoever.

Sec. 6. No part of the public school fund shall be invested in the stock or bonds or other obligations of any State, or of any county, city, town or corporation. The stock of the bank of the State of Missouri now held for school purposes and all other stocks belonging to any school, or university fund, shall be sold, in such manner and at such time as the General Assembly shall prescribe; and the proceeds thereof, and the proceeds of the sales of any lands, or other property which now belong or may hereafter belong to said fund, may be invested in the bonds of United States. All county school funds shall be loaned upon good and sufficient unencumbered real estate security, with personal security in addition thereto.

Sec. 7. No township or school district shall receive any portion of the public school fund, unless a free school shall have been kept therein for not less than three months during the year for which distribution thereof is made. The General Assembly shall have power to require by law, that every child of sufficient mental and physical ability, shall attend the public schools, during the period between the ages of five and eighteen years, for a term equivalent to sixteen months, unless educated by other means.

Sec. 8. In case the public school fund shall be insufficient to sustain a free school, at least four months in every year, in each school district in this State, the General Assembly may provide by law for the raising of such deficiency, by levying a tax on all taxable property in each county, township, or school district as they may deem proper.

Sec. 9. The General Assembly shall, as far as it can be done, without infringing upon vested rights, reduce all lands, monies, and other property, used or held for school purposes in the various counties of this State into the public school fund herein provided for, and in making distribution of the annual income of said fund shall take into consideration the amount of any county or city funds, appropriated for common school purposes, and make such distribution as will equalize the amount appropriated for common schools throughout the State.

(Compliments of Anne Parkison, Reference Division of the Missouri State Library, Jefferson City, Missouri: Received via telephone on 5/17/73)

APPENDIX IV.C.

MISSOURI CONSTITUTION (1875)

ARTICLE XI--EDUCATION

Sec. 1. A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the General Assembly shall establish and maintain free public schools for the gratuitous instruction of all persons in this State between the ages of six and twenty years.

Sec. 2. The income of all the funds provided by the State for the support of free public schools shall be paid annually to the several county treasurers, to be disbursed according to law; but no school district in which a free public school has not been maintained at least three months during the year for which the distribution is made, shall be entitled to receive any portion of such funds.

Sec. 3. Separate free public schools shall be established for the education of children of African descent.

Sec. 4. The supervision of instruction in the public schools shall be vested in a "Board of Education," whose powers and duties shall be prescribed by law. The Superintendent of Public Schools shall be president of the board. The Governor, Secretary of State and Attorney-General shall be ex officio members, and, with the Superintendent, compose said Board of Education.

Sec. 5. The General Assembly shall, whenever the Public School fund will permit, and the actual necessity of the same may require, aid and maintain the State University, now established, with its present departments. The government of the State University shall be vested in a Board of Curators, to consist of nine members, to be appointed by the Governor, by and with the advice and consent of the Senate.

Sec. 6. The proceeds of all lands that have been or hereafter may be granted by the United States to this State, and not otherwise appropriated by this State or the United States; also, all moneys, stocks, bonds, lands and other property now belonging to any State fund for purposes of education; also, the net proceeds of all sales of lands and other property and effects that may accrue to the State by escheat, from unclaimed dividends and distributive shares of the estates of deceased persons; also, any proceeds of the sales of the public lands which may have been or hereafter may be paid over to this State (if Congress will consent to such appropriation); also, all other grants, gifts or devises that have been or hereafter may be made to this State, and not otherwise

appropriated by the State or the terms of the grant, gift or devise, shall be paid into the State treasury, and securely invested and sacredly preserved as a Public School fund; the annual income of which fund, together with so much of the ordinary revenue of the State as may be by law set apart for that purpose, shall be faithfully appropriated for establishing and maintaining the free public schools and the State University in this article provided for, and for no other uses or purposes whatsoever.

Sec. 7. In case the Public School fund now provided and set apart by law for the support of free public schools shall be insufficient to sustain a free school at least four months in every year in each school district in this State, the General Assembly may provide for such deficiency in accordance with section eleven of the article on revenue and taxation; but in no case shall there be set apart less than twenty-five per cent of the State revenue, exclusive of the Interest and Sinking fund, to be applied annually to the support of the public schools.

Sec. 8. All moneys, stocks, bonds, lands and other property belonging to a county school fund; also, the net proceeds from the sale of estrays; also, the clear proceeds of all penalties and forfeitures, and of all fines collected in the several counties for any breach of the penal or military laws of the State, and all moneys which shall be paid by persons as an equivalent for exemption from military duty, shall belong to and be securely invested and sacredly preserved in the several counties, as a county public school fund; the income of which fund shall be faithfully appropriated for establishing and maintaining free public schools in the several counties of this State.

Sec. 9. No part of the Public School fund of the State shall ever be invested in the stock or bonds or other obligations of any other State, or of any county, city, town or corporation; and the proceeds of the sales of any lands or other property which now belong, or may hereafter belong, to said school fund, shall be invested in the bonds of the State of Missouri, or of the United States.

Sec. 10. All county school funds shall be loaned only upon uncumbered real estate security, of double the value of the loan, with personal security in addition thereto.

Sec. 11. Neither the General Assembly, nor any county, city, town, township, school district or other municipal corporation, shall ever make an appropriation or pay from any public fund whatever anything in aid of any religious creed, church or sectarian purpose; or to help to support or sustain any private or public school, academy, seminary, college, university or other institution of learning, controlled by any religious creed, church or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the State, or any county, city, town, or other municipal corporation, for any religious creed, church or sectarian purpose whatever.

APPENDIX IV.D.

MISSOURI CONSTITUTION (1945)

ARTICLE IX--EDUCATION

Sec. 1. A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the general assembly shall establish and maintain free public schools for the gratuitous instruction of all persons in this state within ages not in excess of twenty-one years as prescribed by law. Separate schools shall be provided for white and colored children, except in cases otherwise provided for by law.

Specific schools for any contiguous territory may be established by law. Adult education may be provided from funds other than ordinary school revenues.

Sec. 2. The supervision of instruction in the public schools shall be vested in a state board of education, consisting of eight lay members appointed by the governor, by and with the advice and consent of the senate; provided, that at no time shall more than four members be of the same political party. The term of office of each member shall be eight years, except the terms of the first appointees shall be from one to eight years, respectively. While attending to the duties of their office members shall be entitled to receive only actual expenses incurred, and a per diem fixed by law.

The board shall select and appoint a commissioner of education as its chief administrative officer, who shall be a citizen and resident of the state, and removeable at its discretion. The board shall prescribe his duties and fix his compensation, and upon his recommendation shall appoint the professional staff and fix their compensation. The board shall succeed the State Board of Education heretofore established, with all its powers and duties, and shall have such other powers and duties as may be prescribed by law.

Sec. 3. All appropriations by the state for the support of free public schools and the income from the public school fund shall be paid at least annually and distributed according to law.

In event the public school fund provided and set apart by law for the support of free public schools, shall be insufficient to sustain free schools at least eight months in every year in each school district of the state, the general assembly may provide for such deficiency; but in no case shall there be set apart less than twenty-five per cent of the state revenue,

exclusive of interest and sinking fund, to be applied annually to the support of the free public schools.

No school district which permits differences in wages of teachers having the same training and experience because of race or color, shall receive any portion of said revenue or fund.

Sec. 4. All certificates of indebtedness of the state to the Public School Fund and to the Seminary Fund are hereby confirmed as sacred obligations of the state to said funds, and they shall be renewed as they mature for such time and at such rate of interest as may be provided by law. The general assembly may provide at any time for the liquidation of said certificates, but all funds derived from such liquidation, and all other funds hereafter accruing to said state school or state seminary funds, except the interest on same, shall be invested only in registered bonds of the United States or the state, bonds of school districts of the state, or bonds or other securities payment of which are fully guaranteed by the United States, of not less than par value. The general assembly may levy an annual tax sufficient to pay the accruing interest of all state certificates of indebtedness.

Sec. 5. The proceeds of all certificates of indebtedness due the state school fund, and all moneys, bonds, lands, and other property belonging to or donated to any state fund for public school purposes, and the net proceeds of all sales of lands and other property and effects that may accrue to the state by escheat, shall be paid into the state treasury, and securely invested under the supervision of the state board of education, and sacredly preserved as a public school fund the annual income of which shall be faithfully appropriated for establishing and maintaining free public schools, and for no other uses or purposes whatsoever.

Sec. 6. The proceeds of all certificates of indebtedness due the Seminary Fund, the net proceeds of all sales of lands granted to the state for the benefit of the State University with its several divisions, as provided by law, and all gifts, grants, bequests, or devises to said Seminary Fund for the benefit of the University, and not otherwise appropriated by the terms of any such gift, grant, bequest or devise, shall be paid into the state treasury, and securely invested by the board of curators of the State University and sacredly preserved as a Seminary Fund, the annual income of which shall be faithfully appropriated for maintenance of the State University, and for no other uses or purposes whatsoever.

Sec. 7. All real estate, loans and investments now belonging to the various county and township school funds, except those invested as hereinafter provided, shall be liquidated without extension of time, and the proceeds thereof and the money on hand now belonging to said school funds of the several counties and the city of St. Louis, shall be reinvested in registered bonds of the United States, or in bonds of the state or in approved bonds of any city or school district thereof, or in bonds or other securities the payment of which are fully guaranteed by the United States, and sacredly preserved as a county school fund. Any county or the city of St. Louis by a majority vote of the qualified electors voting thereon may elect to distribute annually to its schools the proceeds of the liquidated school fund, at the time and in the manner prescribed by law. All interest

accruing from investment of the county school fund, the clear proceeds of all penalties, forfeitures and fines collected hereafter for any breach of the penal laws of the State, the net proceeds from the sale of estrays, and all other moneys coming into said funds shall be distributed annually to the schools of the several counties according to law.

Sec. 8. Neither the general assembly, nor any county, city, town, township, school district or other municipal corporation, shall ever make an appropriation or pay from any public fund whatever, anything in aid of any religious creed, church or sectarian purpose, or to help to support or sustain any private or public school, academy, seminary, college, university, or other institution of learning controlled by any religious creed, church or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the state, or any county, city, town, or other municipal corporation, for any religious creed, church, or sectarian purpose whatever.

Sec. 9. The government of the State University shall be vested in a board of curators consisting of nine members appointed by the governor, by and with the advice and consent of the senate.

The general assembly shall adequately maintain the State University and such other educational institutions as it may deem necessary.

Sec. 10. It is hereby declared to be the policy of the state to promote the establishment and development of free public libraries and to accept the obligation of their support by the state and its subdivisions and municipalities in such manner as may be provided by law. When any such subdivision or municipality supports a free library, the general assembly shall grant aid to such public library in such manner and in such amounts as may be provided by law.

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V - WEST VIRGINIA STATE EDUCATION AGENCY--
TRANSITION 1958

Contents

Brief History to 1945	167
Constitution	168
State Board of Education	168
State Superintendent of Free Schools	174
The Change--The Period from 1945 to 1958	175
The Strayer Report	175
The Lindman and Feaster Reports	179
The 1956 Election	181
The 1958 Amendment to the Constitution	182
A Review and Appraisal of the Governing Structure by the West Virginia Study Participants	185
<hr/>	
Appendix V. - West Virginia	191
V.A. - West Virginia Constitution (1863) Article X--Education	192
V.B. - West Virginia Constitution (1872) Article XII--Education	194
V.C. - West Virginia Constitution (1872) Proposed Amendment to Article XII, Sec. 2--1946 Election	197
<hr/>	
Table 5 - Comparison of the 1863 with the 1872 West Virginia Constitutions--Education Article	169
Figure 5 - Key events in the West Virginia State Education Agency Development	170
<hr/>	
Bibliography	198

WEST VIRGINIA

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CHAPTER V

WEST VIRGINIA STATE EDUCATION AGENCY--

TRANSITION 1958

Brief History to 1945

The early history and development of the West Virginia State Department of Education has been described in a chapter of a book dealing with the fifty state departments of education: the chapter was prepared by the West Virginia agency's staff.¹ Apparently, education and the development of free schools was one of the issues which split the original commonwealth of Virginia into two parts--Virginia and West Virginia.

The first West Virginia Constitution, ratified in March 1863, mandated "the establishment of a thorough and efficient system of free schools."² The second, and current, Constitution which was ratified in August 1872 continues this same language.³ Article XII, Section 1 of the 1872 Constitution makes the Legislature responsible for the establishment of the free school system and the West Virginia courts have upheld the Legislature's prerogative to

¹Jim B. Pearson and Edgar Fuller, eds., Education in the States: Historical Development and Outlook (Washington, D.C.: National Education Association of the United States, 1969), pp. 1345-1372. Chapter 49 concerns West Virginia.

²West Virginia Const. (1863) art. X, sec. 2. A copy of Article X can be found in Appendix V.

³West Virginia Const. (1872) art. XII, sec. 1. A copy of Article XII can be found in Appendix V: this copy includes the original Constitution plus the amendments.

modify the system at its discretion.⁴ Article XII, Section 2 (1958 Amendment) vests the general supervision of the free schools in the West Virginia State Board of Education.⁵

Constitution

A comparison of Article X, Education, of the 1863 Constitution with Article XII, Education, of the 1872 Constitution shows a few basic changes. This comparison can be found in Table 5. While the 1872 Constitution assigned the responsibility for the general supervision of the free schools to the State Superintendent of Free Schools, it did specify a method of selection for this office but in another part of the Constitution.⁶ The legislature chose to implement the 1872 Constitution by specifying a four-year elective term beginning in 1876 and by permitting the office to run concurrently with the other state elective offices.⁷

State Board of Education

Prior to 1945, the State of West Virginia had experimented with a variety of boards to assist the State Superintendent of Free Schools in the supervision of the state's schools. Figure 5 presents some of the key milestones in the development of the West Virginia state governing structure for elementary and secondary education, including the portion pertaining to the State Board of Education. The first efforts were devoted to the development of boards with specialized purposes, starting with a teacher examination and certification board in 1873.⁸ Later, in 1909, the Legislature authorized a

⁴School Laws of West Virginia (Charlottesville, Va.: The Michie Company, 1971), p. 524. See the Annotations.

⁵Ibid., pp. 524-526.

⁶West Virginia Const. (1872) art. VII, sec. 2.

⁷West Virginia, Acts (1875), c.66, sec. 2.

⁸West Virginia, Acts (1872-73), c. 123, sec. 29.

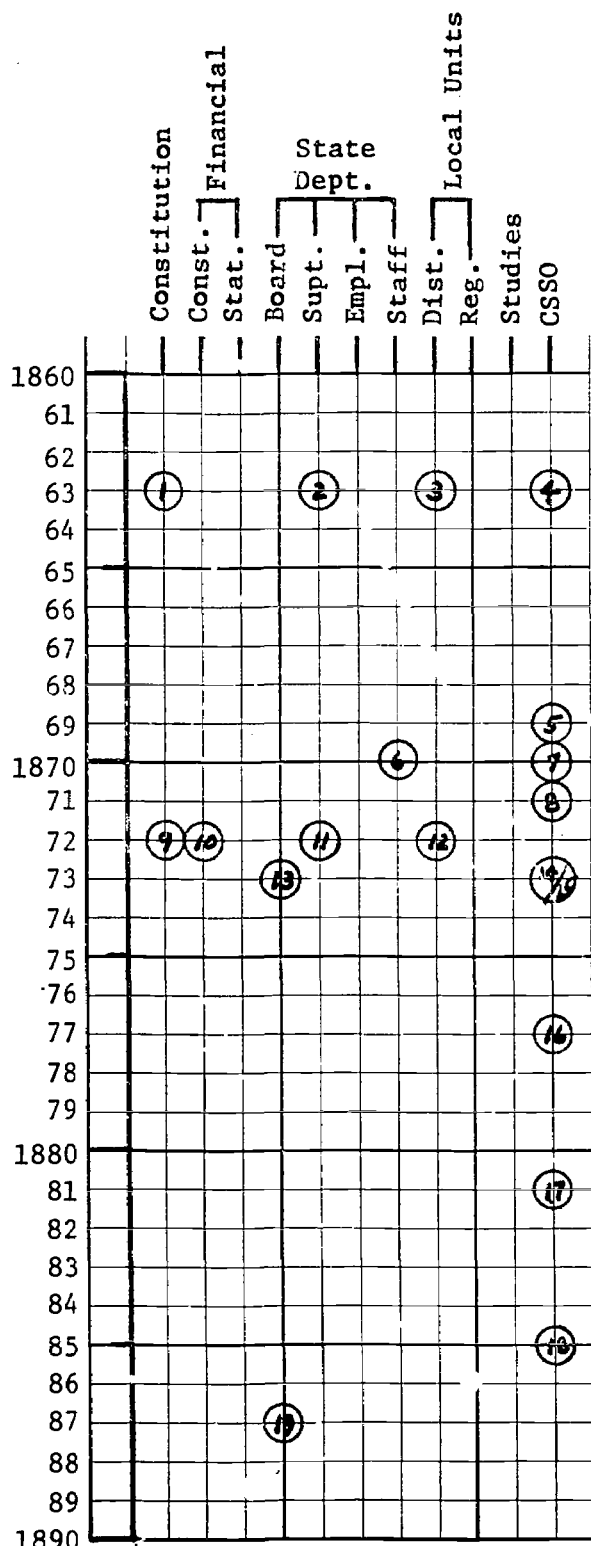
TABLE 5

COMPARISON OF THE 1863 WITH THE 1872 WEST VIRGINIA CONSTITUTIONS--EDUCATION ARTICLE

Sect. No. of Art. XII 1872 Const.	Sect. No. of Art. X 1863 Const.
1. Legislature to establish school system.	2. First sentence.
2. (1872) Creates office of State Supt. of Free Schools.	3.
2. (1958) Creates State Board of Education and office (appointed) of State Supt. of Free Schools.	No counterpart.
3. Provision of County Superintendent of Schools.	3. Specifies election.
4. Defines school fund; 1902 amendment limits accumulation to \$1.0 million and requires distribution to free schools of monies exceeding this limit.	1. Same, Bd. of School Fund created.
5. Creates general school fund.	2. Second sentence.
6. Continuance of already created school districts until changed by Legislature.	No counterpart.
7. Sets up mechanics of county or district free school levies (i.e., reporting and collection).	No counterpart.
8. Racial segregation clause.	No counterpart.
9. Defines conflict of interest for officials or employees of free schools.	No counterpart.
10. Requires vote of people affected in order to establish independent free school districts.	No counterpart.
11. Limits creation of normal schools to those established and in operation or chartered in 1873.	No counterpart.
12. Legislature to foster school improvements.	4.

FIGURE 5

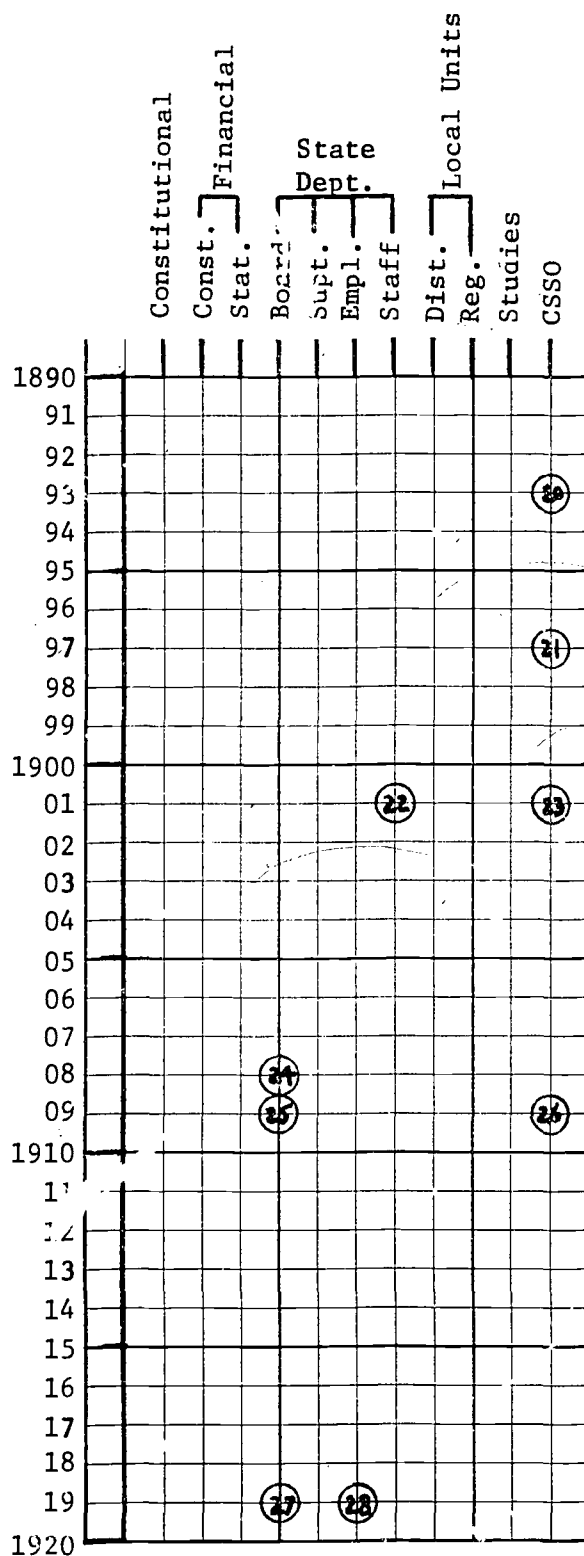
KEY EVENTS IN W. VA. STATE EDUCATION AGENCY DEVELOPMENT



Events

1. First W. Va. Constitution Ratified 3/ /1863; Statehood 6/20/1863.
2. Leg. provided for election of Supt. by Joint Vote of Leg.: 2-year term.
3. Leg. constituted ea. township as a school district.
4. William R. White, 1863-69
5. H. A. G. Ziegler, 1869-70
6. Staff size = 1 (Supt.)
7. Alvin D. Williams, 1870-71
8. Charles S. Lewis, 1871-73
9. Second W. Va. Constitution Ratified 8/ /1872.
10. Bd. of the Sch. Fund created (Gov., Supt., Aud., & Treas.); General Sch. Fund created.
11. 1872-73 Leg. provided for general election of Supt.; 4-year term.
12. Continued magisterial dist.; created independent sch. dist.
13. Created teacher exam. and cert. bd.--Supt. plus 2 teachers apptd. by Gov.
14. William K. Percleton, 1/ /1873 to 3/ /1873
15. Benjamin W. Byrne, 1873-77
16. William K. Pendleton, 1877-81
17. Bernard I. Butcher, 1881-85
18. Benjamin S. Morgan, 1885-93
19. Creation of State Bd. of Examiners.

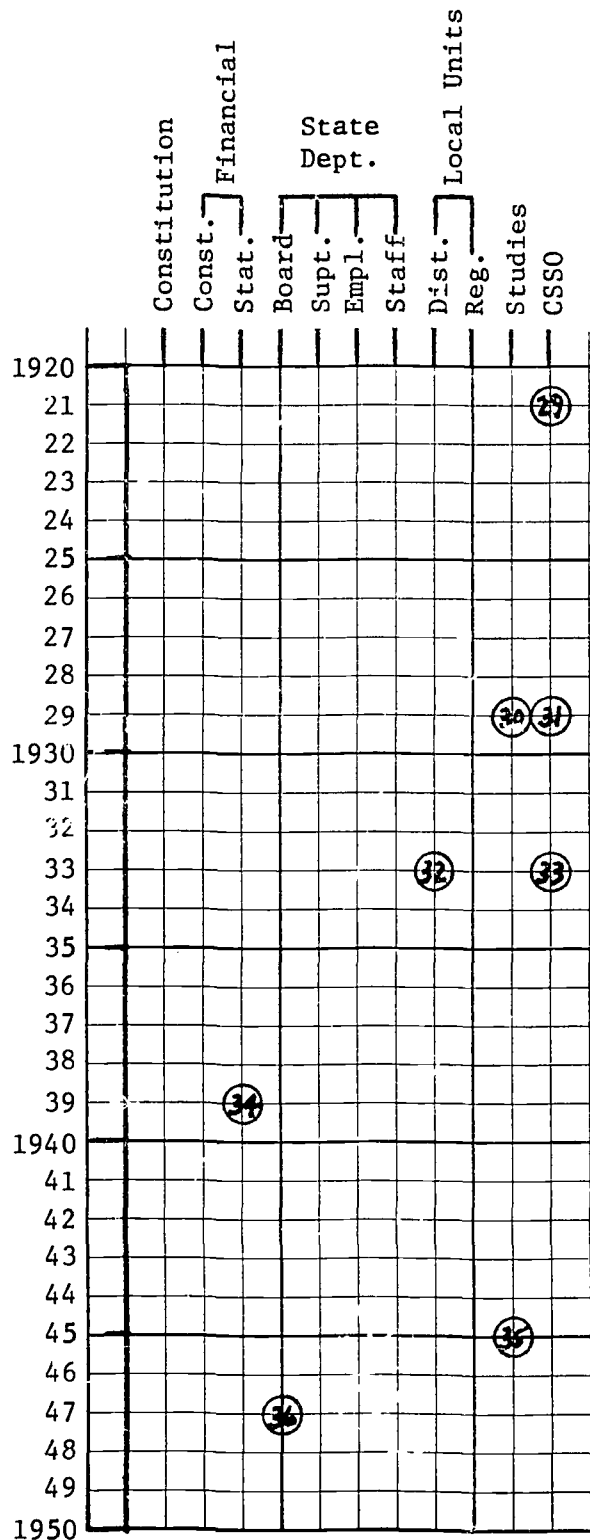
FIGURE 5--Continued



Events

20. Virgil A. Lewis, 1893-97
21. James Russell Trotter, 1897-1901
22. Staff Size = 4
(Supt., Steno., 2 Clerks)
23. Thomas C. Miller, 1901-09
24. Creation of State Bd. of Educ.
(replaces State Bd. of Examiners).
25. Creation of State Bd. of Regents
for certain State Institutions
and State School Book Comm.
26. M. P. Shawkey, 1909-21
27. Creation of "general purpose"
State Bd. of Educ. Replaced
several other boards.
28. Leg. gave Supt. authority to
employ assistants.

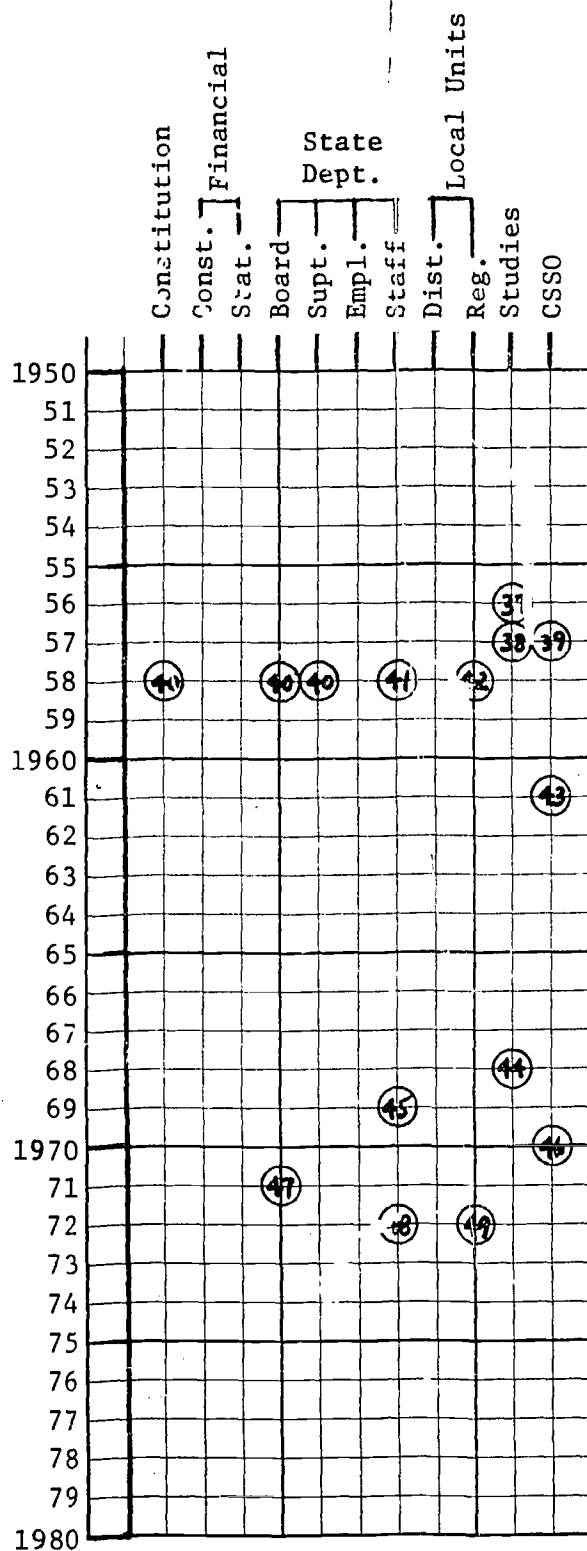
FIGURE 5--Continued



Events

29. George M. Ford, 1921-29
30. L. V. Cavins Study--Survey of Educ. in W. Va.
31. William C. Cook, 1929-33
32. County unit plan enacted: all territory in one county is a school dist. All other units abolished.
33. W. W. Trent, 1933-57.
34. Creation, by Leg., of State Bd. of School Finance (Supt., State Tax Comm., Dir. of Budget).
35. G. D. Strayer Study--A Report of a Survey of Public Education in the State of W. Va.
36. Leg. created 10-member State Bd. of Education (forerunner to current Board).

FIGURE 5--Continued

Events

37. C. L. Lindman Study--W. Va. Public Schools: A Survey Report
38. E. K. Feaster Study--A Survey of the Educational Programs of W. Va. Public Schools
39. R. Virgil Rohrbough, 1957-61
40. Const. amendment ratified establishing State Bd. of Educ. and a bd. apptd. Supt. who serves at the will and pleasure of the Bd.
42. Established regional coordination plans for county school districts.
41. 1958-59 Staff size = 94 (47 Prof., 47 Clerical)
43. Rex M. Smith, 1961-70
44. J. T. Nerden Study--Report to Subcommittee on Education Joint Committee on Government and Finance, Legislature of W. Va.
45. 1969-70 Staff Size = 224 (115 Prof., 109 Clerical)
46. Daniel R. Taylor, 1970-Pres.
47. Added Chancellor of Bd. of Regents to SBE and other changes: Constitutional amendment of 1971 made this change--Chancellor was a participant in SBE meetings as early as 1968.
48. 1972-73 Staff size = 241 (124 Prof., 117 Clerical)
49. Established multi-county regional service units (Regional offices established on limited basis in 1958--See Event 42)

textbook adoption board. These boards were heavily dominated by professionals. Other special purpose boards were created in the first decade of the twentieth century.

In 1919, a rather significant development took place in the state board of education concept. The board created under the 1919 act became more of a general purpose board, replacing the special purpose boards created in 1908 and 1909. It is interesting to note that many of the key elements built into later West Virginia State Boards of Education were contained in the 1919 act: staggered terms for board members, members appointed by the Governor with confirmation by the Senate, detailed specifications for the filling of vacancies and the removal of members, and political balance requirements.¹⁰ This board was modified again in 1921.¹¹

In 1939, a State Board of School Finance was created for the purpose of reviewing county school district budgets and of allocating and distributing state school aid.¹² This board, made up of three state officials--the State Superintendent of Free Schools, as chairman, the State Tax Commissioner, and the Director of the Budget, as secretary--serving on an ex officio basis, was one of the important elements in the State Superintendent of Free School's power position relative to that of the State Board of Education.

State Superintendent of Free Schools

West Virginia's State Superintendent of Free Schools has been a Constitutional officer since the state's inception. The first Constitution

⁹ West Virginia, Acts (1909), c.23.

¹⁰ West Virginia, Acts (1919), c.2, sec. 4.

¹¹ West Virginia, Acts (1921), c.1.

¹² West Virginia, Acts (1939), c.46, sec. 3.

mandated the office and stipulated that it be an elective office.¹³ Implementation of this Constitutional provision by the Legislature led to the election of the General Superintendent of Free Schools by a vote of both houses of the Legislature with the first legislative election to be conducted in January 1864.¹⁴ In the 1872 Constitution, as mentioned earlier, the office was specified, the responsibility for the "general supervision of free schools" was assigned together with a statement to the effect that the legislature could establish by law such other duties as were necessary to fulfill the Superintendent's responsibility for the general supervision of the schools.¹⁵ A four-year term was created for the office and election was specified by the Legislature as the method of selection.¹⁶

The State Superintendent of Free School's ex officio memberships on the Board of Public Works and the State Board of School Finance, coupled with his Constitutional responsibilities for the general supervision of the free schools, had placed this office in a very powerful position, potentially if not in fact.

The Change--The Period from 1945 to 1958

The Strayer Report

A variety of reasons may have led the West Virginia Legislature to adopt Senate Concurrent Resolution No. 6 in February 1945 for the purpose of examining in depth several aspects of state government. Education received number one priority in the resolution.¹⁷ In addition to the Legislative

¹³West Virginia Const. (1863) art. X, sec. 3.

¹⁴West Virginia, Acts (1863), c.137, sec. 26.

¹⁵West Virginia Const. (1872) art. XII, sec. 2.

¹⁶West Virginia, Acts (1875), c.66, sec. 2.

¹⁷West Virginia, Acts (1945), Senate Concurrent Resolution Number 6.

Interim Committee called for by the resolution, a fifteen member, governor-appointed citizen's committee was included as a component part of the study review system.

In reviewing this period of West Virginia history, the participants in the current study suggested that several reasons may have led to this resolution. First, there were problems developing in the relationship between the Legislature and the State Superintendent of Free Schools. Of course, this situation was not limited to the State Superintendent: other state officers were in a similar situation. Second, the problems created by the attempt of Governor Neely to replace the Board of Regents, even though it had occurred some years earlier, remained on the minds of many. Third, the demands of various interest groups within the state, such as the West Virginia Education Association, to remove education from partisan politics. These demands were consistent and persistent.

The Legislative Interim Committee was directed by the resolution to act as the Legislature's agent in contracting and arranging for the studies. This Committee, co-chaired by the Speaker of the House of Delegates and the President of the Senate, contracted with Dr. George D. Strayer to conduct a comprehensive survey of West Virginia education. The Strayer committee, composed of a number of people with considerable expertise in the many facets of education, was made up of people external to the State of West Virginia.

Strayer's committee prepared a lengthy report and submitted it to the Legislative Interim Committee.¹⁸ In it there were a number of recommendations affecting the state-level governance of education. A few of the principal recommendations can be summarized as follows:

¹⁸George D. Strayer, A Report of a Survey of Public Education in the State of West Virginia (Charleston, West Virginia: Legislative Interim Committee, 1945).

- I. Amend the West Virginia Constitution to include the following details:
 - A. Establish a State Board of Education and assign it the responsibility for the general supervision and control of the public school system, including the state colleges;
 - B. Fix the board size at nine governor-appointed members with members serving nine-year terms in all appointments except the first set, in which staggered terms are established;
 - C. Make the Governor's appointees subject to confirmation by the West Virginia Senate;
 - D. Permit removal of board members by the Governor on grounds of misconduct, incompetence, or neglect of duty, and upon written charges, but for no other reason.
- II. Include in the Constitution a statement concerning the appointment of the State Superintendent by the State Board of Education and designate him as the chief executive officer of the Board and its secretary.
- III. The State Superintendent of Free Schools should have an able deputy, one who is appointed by the State Board of Education upon the nomination of the State Superintendent.

These recommendations were outlined in the front of the report.¹⁹

The Legislative Interim Committee and the Legislature moved quickly after the Strayer committee reported in December 1945 to attempt the implementation of the Strayer committee's recommendations. A copy of the proposed amendment is included in Appendix V. In an article written in May 1946, Reeder explained some of the opposition encountered in the special session of the Legislature and cited reasons why the amendment should be supported.²⁰ This amendment, however, failed to pass in the 1946 general election with a vote of 174,156 (48.95%) Yes and 181,606 (51.05%) No.²¹

In spite of the amendment's defeat, however, Mr. Amos, Speaker of the

¹⁹ Ibid., pp. 1-5.

²⁰ Phares E. Reeder, "Plain Talk, " West Virginia School Journal, 74 (May, 1946), 8-9.

²¹ Telephone conversation with Deputy Supt. Gladwell's office on May 16, 1973.

House in the 1947 session and also co-chairman of the 1945 Legislative Interim Committee, sponsored a bill in the 1947 session to implement the Strayer committee's recommendations for a strong State Board of Education.²² In substance this act became the forerunner to the State Board of Education Amendment ratified in 1958. It established a ten-member State Board of Education with nine governor-appointed, senate-confirmed members and the State Superintendent serving as a non-voting, ex officio member. Members were given nine-year terms with the exception of those in the first set of appointments. The first appointees were given terms of from one to nine years, at one-year intervals, in order to establish staggered terms. The act required that at least one, but less than three, members represent each of the state's four Congressional districts. Further, it specified that no more than five members of the board represent one political party, that less than three members emanate from the same institution of higher education, that members may be reappointed, and that the Governor may remove members from the board only for official misconduct, incompetence, neglect of duty, or gross immorality, and then only in the manner of removal for elective officials.

In addition, the act provided that the board elect, from its membership, a president and vice president each year at the first regular meeting of the board commencing with the school year beginning on July 1, 1947. Each new board is to be appointed before July 1st, which is the beginning of the West Virginia school year.²³ A "conflict-of-interest" clause was built into the law and this clause excluded from membership to the board any person who is a

²²West Virginia, Acts (1947), c.72.

²³School Laws, op.cit., p.3. Sec. 18-1-2 defines the West Virginia school year.

member of a political party executive committee, who holds any public office or public employment under federal, state or local units of government, or who is an appointee or employee of the board.

The board was granted power to determine the educational policies of the state, with the exception of West Virginia University and the Potomac state school. In addition, it was granted broad rule-making authority for the implementation of state laws and policies. An annual report to the Governor, through the State Superintendent of Free Schools, was called for in the act, as was the appointment of a secretary to the board.

The Lindman and Feaster Reports

The development of the State Board of Education under the terms of the 1947 act may well have planted the seeds for destruction of the elective method of selection for the State Superintendent of Free Schools from at least two standpoints. First, it directly challenged the State Superintendent's responsibility for "the general supervision of free schools" because now the policy matters were placed directly in the hands of the board. Second, it made provision for the board-appointed secretary who, just by virtue of the office and not because of personality, was a potential rival to the State Superintendent in educational matters. This position posed a direct challenge to the State Superintendent of Free Schools because it provided a channel through which the State Board of Education could circumvent the State Superintendent if it chose to do so: even though this position may never have been used in this fashion, the threat was always there.

According to the study participants, a variety of factors were beginning to lead towards definitive change. Among them:

1. The mere fact of Dr. Trent's long tenure was beginning to work to his disadvantage, primarily based on the "change for change's sake" philosophy if for no other reason. Even as early as 1939, the development of the Board of School Finance was an effort to dilute the power of the State Superintendent of Free Schools.

2. The period during the early and middle 1950's was one of increasing conflict between the State Board of Education and the State Superintendent of Free Schools. As part of this, increasing involvement by the State Board of Education in the administrative affairs of the Department was becoming apparent.

3. There was increasing friction between the State Superintendent of Free Schools and the Board's secretary.

4. The State Superintendent during the middle 1950's was practically isolated from the county superintendents and the rest of the profession. During this time, the main avenue available to the profession was through the Board. Of course, this one factor alone may have been responsible for bringing various elements of the profession together for the purpose of working against the incumbent.

5. The State Department of Education did lack some organizational features thought to be significant by the profession, notably a research unit.

6. Certain elements of the profession, as mentioned earlier, were continuing to press the issue of an appointed State Superintendent.

It must be pointed out that there is no particular significance to the order in which the factors have been listed. None of the factors listed above are intended to discredit the work of Dr. Trent who had made significant contributions to West Virginia education, starting with the administration of the county unit plan in 1933, immediately after he took office.

In 1955, the Legislature authorized another survey of West Virginia education and the result of this survey, which was published in 1956, became known as the Lindman report.²⁴ The Lindman group, in reviewing some of the same topics that the Strayer report covered, made the following principal recommendations concerning the state-level governance of education:

1. The West Virginia Constitution should be amended to permit the State Board of Education to appoint the State Superintendent of Free Schools.

2. The State Superintendent of Free Schools should serve as secretary and executive officer and be accountable to the board. This should also be in the Constitution.

²⁴George Peabody College for Teachers (E.L. Lindman, Project Director), West Virginia Public Schools (Nashville, Tennessee: Division of Surveys and Field Services, George Peabody College for Teachers, 1956).

3. The board should fix the salary of the State Superintendent of Free Schools.

4. The board should be responsible for public schools only, that is, for all aspects below college.

5. There should be a nine-member board, with six elective members, one each from the state's six Congressional districts, and three governor-appointed members.

6. The State Board of School Finance should be abolished.

Yet another legislatively-financed study was performed by West Virginia's Dean of Education Feaster, and others, for the purpose of determining how the West Virginia Legislature was doing in meeting its Constitutional obligation of providing "for a thorough and efficient system of free schools."²⁵ This particular study, though possibly important in what followed in 1958, did not have direct bearing upon the governing structure issue itself. Indirectly, however, it may have implied that there was a leadership problem present at the state level. The report was released in 1957 and the timing may have been such as to make the report a very useful item of discussion just prior to the vote on the Constitutional amendment in the fall of 1958.

The 1956 Election

Dr. W. W. Trent, completing an unprecedented sixth term of office as State Superintendent of Free Schools, was undecided some months before the election concerning his plans for a seventh term. Some observers felt that Dr. Trent, a Democrat, started out with the thought that he would not run and then, slowly, began to reverse his original decision and decided to run after all. In the meantime, Dr. R. Virgil Rohrbough, County Superintendent of Taylor County, announced that he would run on the Republican ticket. Some of the study participants felt that Dr. Rohrbough was encouraged to run by the county superintendent's association from the northern counties of West Virginia. He campaigned on the platform that, if elected State Superintendent of Free Schools,

²⁵E.K. Feaster, Director, A Survey of the Educational Programs of the West Virginia Public Schools (Charleston, West Virginia: Legislative Interim Committee, 1957).

he would recommend to the Governor and the Legislature that a Constitutional amendment be submitted to the voters of the State giving the State Board of Education the authority to appoint the State Superintendent of Free Schools.

The result of the November 6, 1956, election found two Republican victors at the state level--Governor-elect Cecil H. Underwood and State Superintendent-elect of Free Schools R. Virgil Rohrbough. In the opinion of the study participants, Rohrbough's election could be attributed to several factors:

1. The long tenure of the incumbent;
2. The increasing conflict between the incumbent State Superintendent and the State Board of Education;
3. The campaign promise made by Rohrbough to remove the office from partisan politics and make it a board appointed office;
4. The strong support for Rohrbough by the profession--teachers, superintendents, etc.

The 1958 Amendment to the Constitution

State Superintendent Rohrbough assumed the office in January 1957 and he, delivering on his campaign promise, immediately proposed to the Governor and to Legislative leaders that they consider amending the Constitution to permit the State Board of Education to appoint the State Superintendent of Free Schools. A Senate Joint Resolution, proposed with bipartisan sponsorship, was adopted by the Legislature in February 1957.²⁶

During the summer of 1957, Superintendent Rohrbough formed a committee of county superintendents to assist in the promotion of the Constitutional amendment. The membership included:²⁷

Co. Supt. George Bryson, McDowell Co.
Co. Supt. Virgil Flinn, Kanawha Co.
Co. Supt. Ted Lowery, Jefferson Co.

²⁶West Virginia, Acts (1957), Senate Joint Resolution Number 1.

²⁷West Virginia State Department of Education, memorandum prepared for the participants of this study. (Typewritten.)

Co. Supt. Olin Nutter, Cabell Co.
Co. Supt. Joe Straight, Marion Co.

West Virginia had established regional associations of county school units in the early 1930's and 1940's for the purpose of facilitating state-local relationships.²⁸ Each of the 55 counties was included in one of the six regions. This regional organizational pattern played a facilitating role in the 1958 Constitutional amendment referendum because it enabled the Constitutional amendment committee of county superintendents mentioned above to meet directly with the regional organization and to develop a plan for the promotion of the amendment. Each county superintendent agreed to assist in the promotion of the amendment by selecting advisory committees within the county unit. Thus, it was possible to complete the organizational effort in the fall of 1957, a full year ahead of the election.

During the year 1958, and up until the November 4, 1958 election, the organized committees at the local level were active in the promotion of the proposed amendment. The West Virginia State Education Association developed the necessary promotional materials and the Parent-Teachers Association and League of Women Voters joined in the efforts to disseminate the information concerning the amendment. The efforts of many individuals and groups were rewarded by the November 4, 1958, vote because the amendment was ratified by a vote of 230,879 (52.82%) Yes and 206,201 (47.18%) No, resulting in a plurality of 24,678 votes.²⁹

It is interesting to note that the amendment proposed in 1946 carried with it a stipulation that the elected State Superintendent of Public Instruc-

²⁸ Pearson and Fuller, op.cit., p. 1361.

²⁹ West Virginia State Department of Education, memorandum prepared for the participants of this study. (Typewritten.)

tion be allowed to serve out the remainder of his term: an examination of the 1958 amendment revealed that it carried no such provision. State Superintendent Rohrbough resigned his office in 1958, shortly after the election, to enable the State Board of Education to make its selection of a State Superintendent of Free Schools under the terms of the newly ratified Section 2, Article XII, of the West Virginia Constitution. A unanimous vote of the State Board of Education on December 11, 1958, led to the appointment of Dr. Rohrbough as the first appointed State Superintendent of Free School's in West Virginia's history.³⁰

Governor Underwood, in consultation with State Superintendent Rohrbough, decided to continue the membership of the board, which board had become constitutional and had members taking office on November 5th as opposed to the July 1st date given in the 1947 act. It might be argued that the Governor had the opportunity to change the entire membership of the board had he chosen to do so because of the change of the board's status.

State Superintendent Rohrbough served in this office until his untimely death in 1961. Rohrbough's Deputy Superintendent from July 1957, Rex M. Smith, was appointed State Superintendent of Free Schools on May 19, 1961, by the State Board of Education.³¹ He became the first appointed Superintendent if one concedes that State Superintendent Rohrbough had special status because of his original attainment of the office through the elective process.

³⁰ West Virginia State Board of Education, Minutes of the Meeting of the State Board of Education, meeting of December 10-11, 1958. (Typewritten.)

³¹ West Virginia State Board of Education, Minutes of the Meeting of the State Board of Education, meeting of May 18-19, 1961. (Typewritten.)

A Review and Appraisal of the Governing Structure
by the West Virginia Study Participants

The study participants were asked a number of questions concerning the structure established by the 1958 constitutional amendment and the legislative implementation resulting therefrom.

First, they agreed that the amendment was adequate in most every aspect. There was sufficient detail to define and provide a workable structure and yet a brief, but broad and flexible, statement of responsibilities. As a matter of fact, most participants agreed that the full scope of authority has not been utilized nor even tested yet.

Second, they suggested that the transition occurred in an extremely smooth fashion. There were negligible internal problems observed by the participants, possibly due to State Superintendent Rohrbough's commitment to work with all concerned in obtaining the passage of the amendment that he promised to push if elected, i.e., regarding the appointment of the State Superintendent of Free Schools by the State Board of Education. Further, the Republican victory, the first in many years, did not cut very deep that year and it was obvious to the two Republican victors at the state level that it was imperative that they cooperate with the Democratic office holders. Also, State Superintendent Rohrbough had more than a year to work with the State Board of Education. This, coupled with the Governor's reappointment of board members to the new constitutional board, continued the working relationships which had existed prior to the change. The participants agreed that Rohrbough's not insisting on a grandfather clause indicated the seriousness of his commitment to the objective. This, in conjunction with his prompt resignation after the amendment's ratification, also aided the transition. Certainly, his competence, plus fine display of cooperation at each point along the way as it was needed, was recognized by

the board in appointing him the first appointed State Superintendent of Free Schools. Another aspect which must not be overlooked is that a good deal of very effective organizational effort went into getting the amendment passed. All educational groups, and others, were "pulling together" on this issue.

Third, they observed that the profession and the citizenry of the state had been conditioned to the need for change at the state level through a series of legislatively-sponsored studies and position statements by professional organizations. These had occurred for at least 12 years, beginning with the Strayer study in 1945.

Fourth, the participants voiced the opinion that, over the years since 1947, West Virginia governors have made very fine appointments to the State Board of Education. The feeling expressed by the participants was that the governors have placed competency and representational abilities above partisan political considerations.

The study participants also were queried on some particular aspects of the constitutional amendment and its implementation. With regard to:

Number of Board Members.-All agreed that nine was an adequate number, large enough to be workable but not too large to be unmanageable. An odd-numbered board was also felt to be a necessary requirement.

Type of Board.-Each participant was firm in his belief that board control should rest with lay members; that is, that no member should be an employee of the board, a local, state, or federal employee, or any employee or member of a board of a county school district. Several participants indicated that the lay membership principle was well established in West Virginia. One participant suggested that it is desirable to have some knowledgeable people on the board but that these could be selected from people who had particular kinds of experiences but who were not currently active in one of the categories mentioned above.

Representation.-There was some discussion as to the absolute necessity for the governor being required to select people from geographical or population segments of the state, i.e., Congressional districts. Some felt that

Congressional district representation was a fine concept because it provided a basis for insuring that concerns and needs of the state's various regions were heard and considered. Others felt that the requirement was not absolutely essential but made the board concept more saleable from a political standpoint.

Political Balance on Board.-Most participants felt that this was a necessary safeguard and made the proposal more attractive from a political standpoint. This requirement tends to avoid domination of the board by any one political party. None of the participants were aware of any issue faced by the State Board of Education which was decided on a partisan political basis.

Term Length of Board Members.-The original reason for the nine-year term length, i.e., the avoidance of domination of the board by any one governor's appointees, no longer exists. West Virginia governors may now succeed themselves. In spite of this fact, however, the majority of the study participants felt that a nine-year term was reasonable; however, several participants felt that a term of about 6 years may be more realistic, particularly when one thinks in terms of reappointment, etc.

Confirmation of Board Members.-Most participants agreed that confirmation by the Senate, or by joint vote of both houses, was a useful link in the check and balances system. One participant suggested that Senate confirmation probably was not essential but that it was a procedure that was well ingrained in West Virginia politics.

Relations of the State Board of Education with the Governor and the Legislature.-Some participants suggested that there need be no direct contact between these officers of state government and that the submission of the required reports would fulfill the board's responsibilities to the Governor and the Legislature. However, others expressed the thought that informal policy discussions between the State Board of Education, the Governor, and the leadership of the Legislature might serve a very useful purpose. One position tended to favor minimizing partisan political contacts, thus enabling the board to retain its non-partisan image and flavor; the other position advanced the idea that improved communications, on an informal basis, would aid in improving relations among these three areas of state government.

Constitutional State Board of Education and State Superintendent of Free Schools.-Study participants strongly agreed that the governing structure should be included in the Constitution. Further, they supported the concept of a strong, Constitutional State Board of Education and a Constitutional State Superintendent of Free Schools appointed by the Board. Governor-appointed, Senate-confirmed boards have had a long history in West Virginia so it appears that this concept required little selling to the profession or the citizens.

Several other opinions were secured from several of the study participants. One participant suggested that the powers of the State Board of Education with regard to State Department of Education personnel have never been clearly defined. These powers, he felt, should be defined and State Board of Education approval tied to the State Superintendent's appointments by some process. Several participants felt that vocational education was an intrinsic part of education and should be the Board's responsibility; likewise, the final decision concerning teacher certification should rest with the Board. However, they suggested that professional input should be sought by the Board in areas such as teacher certification.

The State Board of School Finance, now abolished, was viewed by several participants as diluting the responsibilities of the State Board of Education and making Board accountability for the free schools' financial situation very difficult.³² In addition, however, one participant observed that it was often difficult to get the members of the State Board of School Finance together for a meeting. Several participants also agreed that the State Board of Education should devote its attention to elementary and secondary school problems; that when it also was responsible for the state colleges, the affairs of the colleges took up a disproportionate amount of time from elementary and secondary matters. Responsibilities for state colleges and universities were transferred to the West Virginia Board of Regents in 1969.³³ In response to a question concerning what was the best form of control that the governor and Legislature could exert over the affairs of the State Board of Education and its Department, the participants agreed that

³²The State Board of School Finance was abolished in 1971 and its duties were transferred to the State Board of Education. See West Virginia, Acts (1971), c.153; School Laws, op.cit., p. 151 (sec. 18-9A-17).

³³West Virginia, Acts (1969), c.130; School Laws, op.cit., p.296-98 (sec. 18-26-11,12).

budgetary control was probably most effective. One participant pointed out that West Virginia Legislature may add to the powers and duties of the State Board of Education but cannot encroach upon the board's constitutional powers with regard to the general supervision of the free schools by transferring powers, etc., to other state agencies.³⁴

³⁴ See School Laws, op.cit., p.525. A 1966 opinion of the West Virginia Attorney General interpreted the meaning of "general supervision" phrase in the Constitution (art. XII, sec. 2.).

APPENDIX V

WEST VIRGINIA

APPENDIX NUMBER	TITLE	PAGES	
		FROM	TO
V.A.	West Virginia Constitution (1863) Article X--Education	192	193
V.B.	West Virginia Constitution (1872) Article XII--Education	194	196
V.C.	West Virginia Constitution (1872) Proposed Amendment to Art. XII, Sec. 2--1946 Election	197	197

APPENDIX V.A.

WEST VIRGINIA CONSTITUTION (1863)

ARTICLE X--EDUCATION

1. All money accruing to this State, being the proceeds of forfeited, delinquent, waste and unappropriated lands; and of lands heretofore sold for taxes and purchased by the State of Virginia, if hereafter redeemed, or sold to others than this State; all grants, devises or bequests that may be made to this State for the purposes of education or where the purposes of such grants, devises or bequests are not specified; this State's just share of the Literary fund of Virginia, whether paid over or otherwise liquidated, and any sums of money, stocks or property which this State shall have the right to claim from the state of Virginia for educational purposes; the proceeds of the estates of all persons who may die without leaving a will or heir, and of all escheated lands; the proceeds of any taxes that may be levied on the revenues of any corporation hereafter created; all monies that may be paid as an equivalent for exemption from military duty; and such sums as may from time to time be appropriated by the Legislature for the purposes, shall be set apart as a separate fund, to be called the School Fund, and invested under such regulations as may be prescribed by law, in the interest bearing securities of the United States, or of this State: and the interest thereof shall be annually applied to the support of free schools throughout the State, and to no other purpose whatever. But any portion of said interest remaining unexpended at the close of a fiscal year, shall be added to, and remain a part of, the capital of the School Fund.

2. The Legislature shall provide, as soon as practicable, for the establishment of a thorough and efficient system of free schools. They shall provide for the support of such schools by appropriating thereto the interest of the invested school fund, the net proceeds of all forfeitures, confiscations and fines accruing to this State under the laws thereof; and by general taxation on persons and property, or otherwise. They shall also provide for raising, in each township, by the authority of the people thereof, such a proportion of the amount required for the support of free schools therein as shall be prescribed by general laws.

3. Provision may be made by law for the election and prescribing the powers, duties and compensation of a General Superintendent of free schools for the State, whose term of office shall be the same as that of the Governor; and for a County Superintendent for each county; and for the election, in the several townships, by the voters thereof, of such officers, not specified in this Constitution, as may be necessary to carry out the objects of this article; and for the organization, whenever it may be deemed expedient, of a State Board of Instruction.

4. The Legislature shall foster and encourage moral, intellectual, scientific and agricultural improvement; they shall, whenever it may be practicable, make suitable provisions for the blind, mute and insane, and for the organization of such institutions of learning as the best interests of general education in the State may demand.

APPENDIX V.B.

WEST VIRGINIA CONSTITUTION (1872)

ARTICLE XII - EDUCATION

1. The legislature shall provide, by general law, for a thorough and efficient system of free schools.

2. The State Superintendent of Free Schools, shall have a general supervision of free schools, and perform such other duties in relation thereto as may be prescribed by law. If in the performance of any such duty imposed upon him by the Legislature, he shall incur any expenses, he shall be reimbursed therefor: Provided, the amount does not exceed five hundred dollars in any one year.

(This section was replaced by a new section 2. which was proposed by Senate Joint Resolution No. 1, Acts 1957; submitted by Acts 1957; and ratified on November 4, 1958.)

2'. The general supervision of the free schools of the State shall be vested in the West Virginia board of education which shall perform such duties as may be prescribed by law. The board shall consist of nine members to be appointed by the governor, by and with the advice and consent of the senate, for overlapping terms of nine years, except that the original appointments shall be for terms of one, two, three, four, five, six, seven, eight, and nine years respectively. No more than five members of the board shall belong to the same political party and in addition to the general qualifications otherwise required by the Constitution, the legislature may require other specific qualifications for membership on the board. No member of the board may be removed from office by the governor except for official misconduct, incompetence, neglect of duty, or gross immorality, and then only in the manner prescribed by law for the removal by the governor of State elective officers.

The West Virginia board of education shall in the manner prescribed by law, select the State superintendent of free schools who shall serve at its will and pleasure. He shall be the chief school officer of the State and shall have such powers and shall perform such duties as may be prescribed by law.

The State superintendent of free schools shall be a member of the board of public works as provided by subsection B, section fifty-one, article six of this Constitution.

3. The legislature may provide for county superintendents and such other officers as may be necessary to carry out the objects of this article and define their duties, powers and compensation.

4. The existing permanent and invested school fund, and all money accruing to this State from forfeited, delinquent, waste and unappropriated

lands; and from lands heretofore sold for taxes and purchased by the State of Virginia, if hereafter redeemed or sold to others than this State; all grants, devises, or bequests that may be made to this State, for the purposes of education or where the purposes of such grants, devises or bequests are not specified; this State's just share of the literary fund of Virginia, whether paid over or otherwise liquidated; and any sums of money, stocks or property which this State shall have the right to claim from the State of Virginia for educational purposes; the proceeds of the estates of persons who may die without leaving a will or heir, and of all escheated lands; the proceeds of any taxes that may be levied on the revenues of any corporations; all moneys that may be paid as an equivalent for exemption from military duty; and such sums as may from time to time be appropriated by the legislature for the purpose, shall be set apart as a separate fund, to be called the "school fund," and invested under such regulations as may be prescribed by law in the interest-bearing securities of the United States, or of this State, or if such interest-bearing securities cannot be obtained, then said "school fund" shall be invested in such other solvent, interest-bearing securities as shall be approved by the governor, superintendent of free schools, auditor and treasurer, who are hereby constituted the "board of the school fund," to manage the same under such regulations as may be prescribed by law; and the interest thereof shall be annually applied to the support of free schools throughout the State, and to no other purpose whatever. But any portion of said interest remaining unexpended at the close of a fiscal year shall be added to and remain a part of the capital of the "school fund"; Provided, that all taxes shall be received by the State upon delinquent lands, except the taxes due to the State thereon, shall be refunded to the county or district by or for which the same were levied.

(The Irreducible School Fund Amendment)

The accumulation of the school fund provided for in Section four of article twelve, of the Constitution of this State, shall cease upon the adoption of this amendment, and all moneys to the credit of said fund over one million dollars, together with the interest on said fund, shall be used for the support of the free schools of this State.

All money and taxes heretofore payable into the treasury under the provision of the said section four, to the credit of the school fund, shall be hereafter paid into the treasury to the credit of the general school fund for the support of the free schools of the State.

5. The legislature shall provide for the support of free schools by appropriating thereto the interest of the invested "school fund," the net proceeds of all forfeitures and fines accruing to this State under the laws thereof and by general taxation of persons and property or otherwise. It shall also provide for raising in each county or district by the authority of the people thereof, such a proportion of the amount required for the support of free schools therein as shall be prescribed by general laws.

6. The school districts into which any county is now divided shall continue until changed in pursuance of law.

7. All levies that may be laid by any county or district for the purpose of free schools shall be reported to the clerk of the county court, and shall, under such regulations as may be prescribed by law, be collected by the sheriff, or other collector, who shall make annual settlement with the county court; which settlements shall be made a matter of record by the clerk thereof, in

a book to be kept for that purpose.

8. White and colored persons shall not be taught in the same school.
(Section is of no effect; see School Laws of West Virginia (Charlottesville, Va.: The Michie Company 1971), p.529-30.)

9. No person connected with the free school system of the State, or with any educational institution of any name or grade under State control, shall be interested in the sale, proceeds or profits of any book or other thing used, or to be used therein, under such penalties as may be prescribed by law: Provided, that nothing herein shall be construed to apply to any work written, or thing invented, by such person.

10. No independent free school district, or organization shall hereafter be created, except with the consent of the school district or districts out of which the same is to be created, expressed by a majority of the voters voting on the question.

11. No appropriation shall hereafter be made to any State normal school, or branch thereof, except to those already established and in operation, or now chartered.

12. The legislature shall foster and encourage, moral, intellectual, scientific and agricultural improvement; it shall, whenever it may be practicable, make suitable provision for the blind, mute and insane, and for the organization of such institutions of learning as the best interests of general education in the State may demand.¹

¹One participant observed that the W.Va.State Board of Education has placed special emphasis on programs of special education for the "blind, mute and insane."

APPENDIX V.C.

WEST VIRGINIA CONSTITUTION (1872)

PROPOSED AMENDMENT TO ART. XII, SEC. 2

1946 ELECTION

2. The general supervision of the free schools of the State, and of such state colleges as may be designated by the Legislature, shall be vested in the State Board of Education, and the general supervision of the state university shall be vested in the Board of Governors of West Virginia University. In addition thereto, each Board shall perform such other duties in relation to public education as may be prescribed by law. Each board shall consist of nine members, to be appointed by the Governor, by and with the advice and consent of the Senate, for overlapping terms of nine years, except that the original appointments shall be for terms of one, two, three, four, five, six, seven, eight and nine years, respectively. At least one member of the State Board of Education shall be of the Negro race. No more than five members of each board shall belong to the same political party, and, in addition to the general qualifications otherwise required by the Constitution, the Legislature may prescribe other specific qualifications for membership on each board. No member of either board may be removed from office except for official misconduct, incompetence, neglect of duty, or gross immorality, and then only in the manner prescribed by law for the removal by the Governor of state elective officers.

The elective office of State Superintendent of Free Schools is hereby abolished, but this provision shall in no way impair the right of the present incumbent to serve the remainder of the term for which he was elected. Hereafter, the State Board of Education shall, in the manner prescribed by law, select the State Superintendent of Free Schools, who shall serve at its will and pleasure. He need not be a resident of the State at the time of his selection but must reside therein at the time he assumes the duties of his office. He shall be the chief school officer of the State and shall have such powers and shall perform such duties as may be prescribed by law. The State Superintendent of Free Schools selected by the State Board of Education shall be a member of the Board of Public Works.

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VI - SUMMARY

<u>Contents</u>	<u>Page</u>
The Findings--Problem Areas	201
Governing Structures--Some General Considerations	204
Bringing About the Change	207
Governing Structure Recommendations	207
<hr/>	
Table 6--Advantages and Disadvantages of Governing Plans	205
<hr/>	
Bibliography	210

CHAPTER VI

SUMMARY

This study has attempted to identify some of the principal problems resulting when a State Education Agency (SEA)--the collective composed of the State Board of Education (SBE), Chief State School Officer (CSSO), and State Department of Education (SDE)--makes the transition from an agency headed by an elected CSSO to one headed by a SBE-appointed CSSO. It was hoped that any findings could be utilized to aid an SEA facing such a change to anticipate the problem areas, and to plan for them in order to minimize the undesirable effects.

The Findings--Problem Areas

Relatively few problem areas were perceived by the participants of this study. Of those that did occur, they could be classified into two areas: (1) SDE related and (2) SBE related.

First, consider those related to the SDE. One of the principal considerations here is that some provisions should be made for the retention of the experienced and qualified personnel of the SDE. None of the states in this study experienced any problems in this area for one or more of the following reasons:

1. The CSSO made a commitment to retain all such personnel;
2. There were statutory provisions for the retention of such personnel during the transition;
3. There was a strong state civil service system in effect at the time the transition was made;
4. The same CSSO remained in power during and after the transition.

The general impression received by the author from the study participants was that the first appointed CSSO's were more concerned with the retention of experienced and qualified personnel than with attempting to replace the incumbents with people of their own choosing, possibly with the exception of those at the very top echelons. This policy must have had considerable influence in maintaining organizational stability and permitting a kind of "business as usual" atmosphere in the SDE. Of course, this does not mean that there was not a major change in emphasis or direction in the departments effort or role when the new CSSO took office. Another factor: the SBE's attention will be focused, initially at least, upon the selection of a new CSSO so that the agency is provided with sort of a "buffer" period in which to adjust to the idea of change.

Regarding the civil service or merit system, a majority of participants favored placing the personnel function under the control of the SBE and CSSO. The principal argument advanced was that the state civil service systems tend to underrate the positions compared to what the SBE and CSSO often feel that they should be. As a result the positions often go unfilled. Several systems were in evidence in the states studied here. They ranged from no SDE personnel covered by a statewide system, as in Missouri, to practically all personnel covered under such a system (in Kansas).

Along this same line, another study participant suggested that statutory provisions should be made for the SBE to approve, upon the CSSO's recommendation, all personnel changes in the SDE staff. This is in line with the strong board concept and keeps SBE members informed and aware of the personnel changes being made, of the types of staff capabilities being developed, of the major thrust and effort of the SDE, and of the personnel turnover, salary problems, and other related aspects. The SBE and the CSSO should insist that all vestiges of partisan political control be removed from

the SDE, such as, "flower funds," political clearance of appointees, etc. Incidentally, none of the participants in this study could recall any significant activity of this nature at the time of the transition.

In some instances, SEA's which have been under partisan political domination will lack well defined personnel policies. The SBE and its appointed CSSO will want to review this situation early to begin developing workable and realistic policies. In addition, some sort of in-service training program to advise the personnel of the SBE's major goals for education should begin as early as possible.

Second, consider those problems related to the SBE. One of the most important aspects here is the SBE's first selection for CSSO. The SBE's first, and probably most important, decision is that related to the selection of the CSSO. Considerations such as experience, background, executive skills, and ability to deal with the Governor, Legislative leaders, educational interest groups, and the public should be of primary concern to the SBE in making its decision. Certainly, the SBE will want input from many sources in considering the candidates for the office.

Another SBE-related problem concerns the transfer of powers from the incumbent CSSO, an elected official, to the SBE. It might be difficult to predict what the incumbent's feelings are concerning the new SBE and the transfer of his/her powers to that board. As a result, the enabling legislation should protect the term and powers of the incumbent; if he chooses to resign and transfer his powers to the SBE, such as in the case of West Virginia, then the transfer can occur earlier. The SBE should be permitted to organize and meet for at least six months prior to the expiration of the incumbent's term. This gives the SBE the opportunity to begin, and hopefully to complete, the selection of the first SBE-appointed CSSO, and to learn the extent of the powers which will be transferred to the SBE.

Still another potential SBE-related problem area concerns the powers assigned to the SBE. Here, the chief concern seemed to be centered around the involvement of the SBE in post-high school education. The five SBE's had varying degrees of involvement in post-high school education and some participants expressed their views on what this involvement should be. Considerable thought should be given to the division of authority over education, particularly if there are two or more agencies responsible for public education in a state.

Governing Structures--Some General Considerations

This study has been concerned with examining those states which have made particular kinds of governing structure changes on the assumption, unproven, that the broadest range of changes should result in the broadest range of problem types. During the course of this study, and as a result of discussions with the study participants, it became apparent to the author that at least several factors should be considered by a state contemplating a new design for its elementary and secondary education governing structure. They are:

1. The various options available for the development of a governing structure. Table 6 presents some of the advantages and disadvantages for each of the fifteen plans which result when the three methods in use for selecting the CSSO are crossed with the five methods in use for selecting the SBE.¹ This concept of presenting the data was given in an article prepared by Wahl and developed from data gathered and sum-

¹The advantages and disadvantages were derived from two sources. They were: Edgar L. Morphet and David L. Jesser, eds., Emerging State Responsibilities for Education (Denver, Colorado: Improving State Leadership in Education, 1970), pp. 37-63; Ewald B. Nyquist, "State Organization and Responsibilities for Education," in Emerging Designs for Education: Program, Organization, Operation and Finance, Edgar L. Morphet and David L. Jesser, eds., (Denver, Colorado: Designing Education for the Future, 1968), pp. 133-191.

TABLE 6
ADVANTAGES AND DISADVANTAGES OF GOVERNING PLANS

		METHOD OF SELECTION OF THE CHIEF STATE SCHOOL OFFICER (CSSO)		
		APPOINTED BY THE SBE	ELECTION BY THE PEOPLE	APPOINTMENT BY THE GOVERNOR
METHOD OF SELECTION OF THE STATE BOARD OF EDUCATION (SBE)	APPOINTED BY THE GOVERNOR	<p>Advantages</p> <ol style="list-style-type: none"> 1. Governor has widest possible choice of candidates for board, thus the governor exerts executive prerogative in choice of board members. 2. Board has widest possible choice of candidates for CSSO; no geographical or professional background limitation (unless written in law). 3. Board can hold CSSO responsible for executing its policies. 4. Governor appointed board should be able to get the governor's ear on proposed policies and plans. 5. Provides stability to educational policy during changes of governor's office if board members are appointed on a staggered term basis. 6. No campaign expenses for SBE members. 7. Partisan political factors should be reduced to a minimum. 8. In case of a board vacancy, the governor can easily fill the vacancy. <p>Disadvantages</p> <ol style="list-style-type: none"> 1. Governor could pack the board with political cronies. 2. Weak board might select a weak CSSO. 3. Eliminates CSSO position from election. 	<p>Advantages</p> <ol style="list-style-type: none"> 1. Governor has widest possible choices of candidates for board; thus he exerts executive prerogative in choice of members. 2. CSSO's selection represents the will of the people. 3. The selection of the CSSO is limited to people who are residents of the state and who know the state's problems. 4. Gov. appointed board should be able to get governor's ear on educational problems, plans, and policies. 5. Board may provide some degree of stability to educational policy during change of CSSO's and governor's office. 6. CSSO may have influence with the governor and yet not be dominated by him. 7. Partisan political factors should be reduced to a minimum to board's decisions. 8. In case of a board vacancy, the governor can easily fill the vacancy. 9. No campaign expenses for SBE members. <p>Disadvantages</p> <ol style="list-style-type: none"> 1. CSSO is responsible to the people and runs on his own platform; hence, he is not obligated to be responsive to the governor. 2. Governor can pack board with political cronies. 3. Board tends to be advisory since the CSSO runs on his own platform; he may force the SBE to accept his platform. 4. No guarantee of best candidate being selected; CSSO's election may be influenced by someone higher on the ballot. 5. CSSO can staff dept. with political supporters instead of people chosen based on competence. 	<p>Advantages</p> <ol style="list-style-type: none"> 1. Governor has widest possible choice of candidates for board. 2. Governor has widest possible choice of candidates for CSSO. 3. Both the Board and the CSSO should be able to get the governor's ear on educational policies. 4. Should facilitate state planning and coordination on educational matters and give greater control to the governor. 5. No campaign expense for SBE members. 6. In case of a board vacancy, the governor can easily fill the vacancy. 7. Provides stability to educational policy during changes of governor's office if board members are appointed on a staggered term basis. <p>Disadvantages</p> <ol style="list-style-type: none"> 1. Board is answerable to same person as the CSSO, the governor; hence, it is likely to be an advisory board; SBE cannot hold CSSO responsible for failure to implement policy. 2. Governor can pack the board with political cronies. 3. Education should not be placed in a position that a single contest (for governor) will determine its outcome.
	ELECTION BY POPULAR VOTE	<p>Advantages</p> <ol style="list-style-type: none"> 1. SBE member's selection represents the will of the people. 2. Board can select best possible candidate for the job of CSSO. 3. Board can hold CSSO responsible for executing its policies. 4. Provides some stability to educational policy if staggered terms are used. 5. Partisan political factors could be reduced to a minimum under proper election method. <p>Disadvantages</p> <ol style="list-style-type: none"> 1. Political campaign may not get best people for the job on the SBE. 2. Weak board might select weak CSSO. 3. Eliminates the CSSO's position from the ballot. 4. Board members may represent the groups which elect them. 5. SBE members take a low priority on the ballot, their elect in may be based upon the victory of someone higher on the ballot. 6. There is no obligation on the part of the SBE to coordinate its activities with the governor because they answer to the same people he does. 	<p>Advantages</p> <ol style="list-style-type: none"> 1. SBE members represent the will of the people. 2. CSSO selection represents the will of the people. 3. CSSO selection is limited to people who are residents of the state and are familiar with state problems. 4. Elected SBE and CSSO may have influence with governor but not be dominated by him. 5. SBE may provide some degree of stability if staggered terms are used. <p>Disadvantages</p> <ol style="list-style-type: none"> 1. Both SBE members and CSSO may represent the groups which elect them. 2. No guarantee of best candidates being selected, either as CSSO or as SBE members. Election may be dependent on someone higher on the ballot. 3. Both SBE and CSSO are responsible to same people as the governor and are not obligated to be responsive to the governor. 4. Since CSSO is responsible to the same people as SBE members, he is not obligated to be responsive to the board; hence, the board is advisory. 5. CSSO may staff department with political supporters rather than on the basis of staffing department with competent people. 6. Substantial campaign costs for all candidates could be involved. 7. Provisions must be made for filling vacancies of both the CSSO and the SBE. 	<p>Advantages</p> <ol style="list-style-type: none"> 1. Board members represent the will of the people. 2. Should facilitate state planning and coordination on educational matters and give control to the governor. 3. Governor has widest possible choice of candidates for CSSO. 4. The CSSO should be able to get ear of the governor on educational problems. 5. Board members provide some stability to policy if staggered terms are used. 6. CSSO vacancy can be easily handled by the governor. <p>Disadvantages</p> <ol style="list-style-type: none"> 1. SBE members may represent groups electing them. 2. No guarantee of best candidates being selected for SBE. 3. CSSO may be forced to accept partisan political views of governor. 4. Education should not be forced into a position such that a single contest (for governor) will determine its outcome. 5. Since CSSO is responsible primarily to the governor, the board tends to be advisory. 6. Substantial campaign costs for SBE members may be involved.
	ELECTION BY REPRESENTATIVES OF THE PEOPLE	<p>Advantages</p> <ol style="list-style-type: none"> 1. SBE can select best possible candidate for CSSO. 2. SBE can hold CSSO responsible for executing its policies. 3. Provides stability to educational policy if staggered terms are used. 4. Partisan political factors could be reduced to a minimum. 5. Campaign expenses are reduced to a minimum. <p>Disadvantages</p> <ol style="list-style-type: none"> 1. There is not a continuous representative election until available to fill vacancies. 2. The representative body type used to select the board could be suspect. 3. Weak board might select a CSSO. 4. Eliminates the CSSO position from the ballot. 	<p>Advantages</p> <ol style="list-style-type: none"> 1. Both CSSO and SBE should have influence with the governor but not be dominated by him. 2. SBE provides some degree of stability to educational policy if staggered term used. 3. CSSO's selection represents the will of the people. 4. Campaign expenses are reduced to a minimum. <p>Disadvantages</p> <ol style="list-style-type: none"> 1. CSSO is responsible to people puts him in superior position to the board. 2. Since the CSSO is responsible to the people, the board will tend to be an advisory board. 3. There is no guarantee of selecting the best candidate for the CSSO since the outcome of the election may be influenced by someone higher on the ballot. 4. The CSSO may staff the department with political supporters rather than people selected on the basis of their competence. 5. No continuous appointing authority available in case of vacancy on SBE members. 	<p>Advantages</p> <ol style="list-style-type: none"> 1. Governor has the widest possible choice of CSSO candidates. 2. Should facilitate state planning and coordination on educational matters and give control to the governor. 3. CSSO should be able to get governor's ear on educational problems and policies. 4. Board provides some stability to educational policy if staggered terms are used. 5. Campaign expenses are reduced to a minimum. 6. CSSO vacancy can easily be handled by the governor. <p>Disadvantages</p> <ol style="list-style-type: none"> 1. No guarantee of best candidate for SBE members, but better than in purely elective situation. 2. CSSO may be forced to accept the partisan political views of the governor. 3. Education should not be forced into a position that a single contest (governor) controls its fate. 4. Since the CSSO is responsible to the governor, the board tends to be advisory. 5. Not a continuous appointing authority available in case of vacancy on the board.
	NO STATE BOARD	Not possible, since there is no board to appoint the CSSO.	<p>Advantages</p> <ol style="list-style-type: none"> 1. CSSO's selection represents the "will" of the people. 2. Selection is limited to state candidates—one who knows the state's needs. 3. Elected CSSO may have influence with the governor yet not be influenced by him. 4. By virtue of fact the CSSO does not report to a board, he can move quickly on issues. <p>Disadvantages</p> <ol style="list-style-type: none"> 1. By virtue of the fact that the governor and the CSSO answer to the same people, the voters, the CSSO is under no obligation to coordinate his activities with the governor. The CSSO runs on his own platform. 2. Political campaigning may limit the number of people willing to run—there is no guarantee that the best man gets the job. The CSSO's election may be largely due to man higher on the ballot. 3. CSSO may staff the department with political supporters rather than people selected on the basis of competence. 4. No board to provide council or advice on problems. 	Essentially the Cabinet Plan
	EX OFFICIO	<p>Advantages</p> <ol style="list-style-type: none"> 1. Since the board is made up of state officials, they are likely to be readily available for board meetings. 2. Board should be able to get governor's ear yet not be unduly influenced by him since they answer to same people he does. 3. Board should be able to appoint best possible candidate for CSSO. <p>Disadvantages</p> <ol style="list-style-type: none"> 1. Heavily subject to partisan political considerations. 2. Board members are elected on the basis of a platform other than educational; further, there is no guarantee that the best man will be selected for each ex officio office. 3. Board will be subject to change every 2 or 4 years depending upon the tenure of each ex officio office. 	<p>Advantages</p> <ol style="list-style-type: none"> 1. CSSO's selection represents the will of the people. 2. Selection is limited to state candidates; those who know the state's needs. 3. An elected CSSO may have influence with the governor yet not be unduly influenced by him. Board members should be able to have some influence with the governor for the same reason. 4. Board members are likely to be readily available for board meetings. <p>Disadvantages</p> <ol style="list-style-type: none"> 1. Board tends to be advisory because CSSO answers to same people as do the SBE members. 2. Board's advice may be heavily subject to partisan political considerations. 3. Board subject to change every 2 or 4 years; stability of board is questionable. 4. Board members are elected on the basis of a platform other than educational. 5. No guarantee that the CSSO or any SBE member is the best candidate since the selection may depend on someone higher on the ballot. 	<p>Advantages</p> <ol style="list-style-type: none"> 1. Governor has widest possible choice for CSSO selection. 2. Gives governor great control and enables him to coordinate educational planning with other state planning. 3. Governor appointed CSSO should have great influence with governor on educational matters. 4. State board members are likely to be readily available for board meetings. 5. Board should be able to get governor's ear yet not be dominated by him. <p>Disadvantages</p> <ol style="list-style-type: none"> 1. CSSO may be forced by governor to support partisan political views. 2. Makes educational planning and policy almost totally dependent upon the governor and his philosophy. 3. Education should not be placed in a position such that it is dependent on the outcome of a single contest (for governor).

marized by the Council of Chief State School Officers.² It is immediately apparent that no plan is ideal. Each one has its advantages and disadvantages which must be weighed in the design of the governing structure.

2. The quality, quantity and timing of board decisions under various alternative structures. One of the unknown factors in the educational governing structure question is the matter of performance of the various types of boards on the various issues presented to it for decision. Included in this consideration are the responsiveness factor; i.e., how responsive the board is to the various publics which it represents. Also included is the "what's right for education" question and whether the board decided an issue correctly on the basis of the state's long-run educational needs. How these questions are answered could well depend upon the information available to the board prior to making its decision. The board probably cannot be isolated from the State Department of Education (SDE) when an evaluation is made regarding this aspect. The author is not aware of any definitive studies on the subject of the evaluation of decision quality.

3. The general satisfaction of and respect for the governing structure adoption by the Governor and Legislature. Most states in this study give their legislature the prerogative of determining the duties to be assigned to the SBE. If there is dissatisfaction with some aspect of the structure, it is likely that the Legislature will restrict the level and type of decisions which it will permit the SBE to engage in. This can be done in at least two ways: first, the legislature can give increased powers to the local educational agencies (LEA's), or second, the legislature can retain the power and run the educational system primarily through statute. Another alternative, at least as important from the author's standpoint, is by restricting the funding to the SEA, and hence the quality and level of staffing, to the point where the SEA is merely an agency in name only. Any SEA which fails to consider that it is an arm of the legislature for the execution of state educational policy could possibly find itself in difficulty with the legislature. There are probably many ways of developing credibility with the Governor and Legislature. It might take the form of informal communication because of personal acquaintance relationships; i.e., SBE members being familiar with the Governor or Legislators. It might develop through the presentation of sound alternatives on various programs which the Governor and Legislature must consider. Forewarning of the Governor and Legislative leaders to present them with the problem and alternatives available to them prior to

²The author acknowledges the assistance of Miss Blanche Crippen of the Council of Chief State School Officers who provided him with a considerable amount of data and information on this general topic. The article referred to is paper 10, Session 0, in: Carter, Phillip L., 1973 Midwest Aids Proceedings (East Lansing, Michigan: Michigan State University, April 13-14, 1973), pp. 0-38 to 0-40.

making a difficult decision. Might not an informal meeting to discuss difficult issues of this sort prior to making the decision lead to a far more satisfactory solution than one in which each agency acts in its own turn in official response to a formal decision of the SBE?

Bringing About the Change

Several methods of bringing about governing structure changes were observed in these states. Among them:

1. A candidate for CSSO runs on a platform of removing the office from partisan politics. West Virginia is an example of a state making this kind of change: a constitutional amendment was ratified shortly after the candidate was elected. Iowa's 1954 change represented a version of this kind of change: an alliance between the CSSO and the Iowa State Teachers Association to propose a certain kind of plan to the Iowa General Assembly.
2. A constitutional convention rewrites the entire education article and the legislative body implements the constitutional provisions. Missouri and Michigan are examples of states which have made changes of this type.
3. A legislatively-financed study which leads to recommendations for change. Kansas probably could be classified in this category since it was a committee of prominent citizens, financed by the Kansas Legislature, which made very substantial recommendations for change to the Legislature, many of which were adopted.

Discussion with participants indicated that there would be little chance of success for any major governing structure change unless the various elements of the education profession were solidly behind a given plan. Another aspect which must not be overlooked is that all of the study states had financed one or more studies over a period of time which supported the idea that the CSSO's office should be removed from partisan politics. Thus, there was professional and public awareness of the various issues involved when the major constitutional or statutory thrust was made.

Governing Structure Recommendations

In developing a governing structure for elementary and secondary

education, the designers should consider a number of factors. Among them:

Constitutional v. Statutory Structure.-On balance, most study participants suggested that there is merit in having the basic details concerning the structure in the constitution. Iowa is an example of a state that has operated on a statutory base for many years. The other four states have included the basic provisions of their structures in their respective constitutions.

Lay Membership on the Board.-There was strong agreement on this point in favor of a lay-controlled board. Several suggested that having some board members with local board experience has some advantage. Several others pointed out the advantages of having someone on the board with prior experience in the legislative body.

Representation, Geographical or Population.-Some sort of areal representation to the State Board of Education was favored by most respondents. Several participants were not absolutely convinced that it was a necessity but felt that any proposal selecting this concern would be more saleable from a political standpoint.

Number of Members on the Board.-Most participants who responded to this question suggested an "ideal" board size that ranged between seven and ten members.

Political Balance on the Board.-Under an elected board there is no control over this factor. Under a Governor-appointed board concept, however, this can be controlled. Most favored a political balance requirement, if for no other reason than it made a governing structure plan more saleable politically. Most observed that, to their knowledge, the SBE in their respective states had seldom, if ever, been divided on an issue politically. The Missouri board concept is very interesting: it was devised as an eight-member board for the purpose of achieving political balance. Further, the Board has developed the practice of alternating the chairmanship from party to party on a yearly basis.

Confirmation of Board Members.-This does not apply to an elected board. In a Governor-appointed SBE situation, most of the participants who responded favored this as a useful link in the checks and balances system, particularly if the legislature uses the confirmation process as it is intended. In one state, the participants stated that this procedure was well established in the state's political processes so that it was an essential element in the saleability of the plan.

Term Length of Board Members.-Many of those who responded to this question indicated that an ideal term length would be from four to nine years with the most popular choice being six years.

Most of these favored an incumbent being eligible for reappointment.

Relationship of the SBE to the Governor and the Legislature.-
Most of the participants who responded to this question favored periodic informal meetings among these three areas of state government. Discussions should be devoted to policy matters according to these respondents.

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